

# THE GOVERNMENT.

is now at an end, by & it being Feudal  
Government of GOD, *Nature*, *Nation*,  
and *King*; and being, hereby, *Jurisdiction*,  
*Advantage*, and *Right*  
*Power*, and *Rule*  
*of Accidents*.

"REKEIN  
the Current (by Prevention) all the Objections of  
the People will be removed and the new Government will

Luke 19: 33

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#### **REFERENCES**

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There have appeared many Pieces, of late, but none of this Theme; which viz. demonstrates, that no Arguments, moved against any Revolution that hath ever hapned in the World, militate against the present Government: for, where, the least scruple might occur, Providence hath ordered such Singularity of Right and Fact, that each particular Man must find his own Opinion (as to Conscience of Obedience) whether subtilly speculative, or solidly practical, in its Establishment. So you (if Pious or Wise) are put to a necessity of making a new Enquiry; since your pre-conceived Informations from Salmasius, &c. touch not the points, à disparatis enim, nulla est illatio. In this, Law must determine your uncertainty: for, Divines, contending, have, as their Canon, the Law of GOD and Nature; Princes have, moreover, the Law of Nations; and Subjects, besides these three, their Civil Laws: whence, all Mortals, have no other Rule of their Opinions and Actions. I fear, by your Actions, you have not had leisure to dive accurately in your own Principles: For there can be no Refined \* Loyalist, (i. e. who conforms Will and Actions to the Laws) unless he be a polite Lawyer, (i. e. who exactly knows them) all others (who blindly zealous) are but dull and Bastard Ones. Therefore, I

\* All Lawyers are express in this, when the question is betwixt two, not subjectio the same Authori- ty: parti- cularly of Scot- land, jus Gentium cum exte- ssionis non servandū non obstat te quocun- que Regni Statuto: Craig: de Fend: pag: 58. For the Law of Nations, (as Super- ior) can no more be changed by Muni- cipal Law ( being inferior) than Man can change the Law of God; or private Subjects publick Statutes.

have published this Essay ( though destitute, by the Author, only for some private Friends whereby you're assured of ingenuity) since, there in, you have an elaborate Illustration of all your remotest difficulties in this matter.

## POSTULATA.

1. ALL you can require, is, that James 7: 2: ceased to be King, without being Deposed by his Subjects. Then

2. The Law of Nations is the sole Judge, ( who hath Right, or not? ) betwixt Sovereign Princes. Because

3. They all have agreed that it should be the Polemion of their Differences, as a Common pre-Contract, and res judicata. Hence

4. K: J: (By that antecedent Consent in it) hath voluntarily renounced his Right ( positio eo catum in which it transferred Right from him) and conferred the same on K: W: and Q: M: Consequently

5. No Municipal Law could impede (as to that case) its Effect and Decision: since the Laws of the great Society of Mankind are unalterable by any lesser part of that Society; especially when the Body politick consents that it should be so \*. Finally,

6. In explication of these, please, to ponder maturely the Marginal Notes and Citations: and even then, let Judices, nisi tota lege perspecta.

IN:

# INTRODUCTION.

ALL that can render a Government Sacred and Immoveable, viz. Birth-right of Succession as to the crown, Election of the people as to the time, and Consent of the late K. J's. Right-making way for both; consider in the present Establishment. Wherefore the subsequent Essay does Demonstrate the manner how Dissenters ( even in their own principles ) perceive these two to concur, and so to be obliged in Obedience, thereunto, by the Laws of GOD, Nature, Nations, and Civil.

As to the Birth-right in the Persons, and the Peoples voice in Electing, the time of declaring it, take this brief *unius*. *The Powers are of God,*\* ( for none other could confer his vita & res ) and were given, first, to Fathers of Families; but since they had Right ( for there was no exception to the Persons ) to transmit, and so amitt, thereby consent, there were two ( yet subsisting ) Fundamental Contracts ( nam fuit duorum plurimorum in idem placitum, quod inter se sunt et quam verbis ) in our Kingdoms, viz. One popular & Anterior ( for there must be Chapter, &c. they can Elect a Bishop ) amongst the Families of Families ( Singulorum cum Singulis & Universis ) obliging to mutual Union, Commerce, and Defence, Lusit, as thereby they became a Body Politick: another Rectoral & Posterior betwixt that body Politick Qua iuste, or its sed right

\* The Powers are the same ( i. scilicet of GOD ) when in the whole Body, & when contracted ( though with a greater Lusit, as tenuis sper- to the

in the Head; just as the hand is the same when Extended and Folded. This Contract is distinct and separate from the Rectoral, not only in law and Time, but also in Special Effects: For by it, ( in Elective Kingdoms; ) after death of the King the People remain Unite, and the people hath Lawful Authority over the Minor part in all Successions & in a Successive Kingdom; if the Royal fail, the Kingdom is not dissolved, but the Major part may overtake Minor ( which would not be without this Union, in Electing a new royal family; as also, if the King be Pupil Fatuus or Furios, in concerning a Tutor or Protector. Where there is no incorporation of Kingdoms ( as among the Kingdoms of Spain, Germany, Britain, &c. which are subordinate ) the Right, in these cases, belongs to each: and where there is no Union of many Families ( the whole being one great Family of men, and so no proper Common wealth ) as in the Ottoman Empire, where failing this Family would fall to pieces, ut mosiente patrem amique sit caput novae familie.

## I N T R O D U C T I O N.

\* Hence Major part (*Singulus & Universus*) and one Sovereign also, is the Head thereof; whereby it was obliged and the Crown was provided to him, and as immediately to the person should be (*as deficientes*) next of his Blood and habile, is to himself; as to so many *Hairs of Entail*. We had many Enemies about, and contentions, within us, and the stronger bore down the weak; wherefore the cause, end, meaning, and tenor (*Taciti & expressi eadem vis est*) of this last Contract must have been to protect us from Abroad, and distribute right Impartially to all at Home; in fulfilling of both which (and so the King's part of this Contract) the Laws were necessarily intended to be the Standard and Rule (for there is no other just *Norma Agendorum, ergo quod inesse debet, prasumitur*) but to put that beyond doubt, Free Immemorial Consuetudo (*optima Interpres*) and the Laws for the Coronation Oaths (by which the King is solemnly married to his Kingdoms) declare and provethe governing us by Law to be our Constitution; yes, if formerly otherwayes, in so far, innovate it; as being a new Contract of King and People (*Lex est communis Reipublicae sponsio*) and *posteriora derogant prioribus* \*.

Hence tho a King break (by Notorious injuries)entirely his part of this Rectoral Contract with one or the other con- nor part of his Subjects; (tho they be, in Conscience, may freed from their's, and so may withdraw, and subje- be entered themselves to another Sovereign, who, *Jure Belli & pri- prij, explati- pio* may vindicate & their right if hindred to dispossed, yea their Estates) yet the Popular Contract with the Major-part altered, (who cannot Rebel [ by affilting the Minor ] in that case & se pro- since the Rectoral Contract, with them *at cum tota, tamen, non* mains entire) makes it *High Treason* against the State (and only by consequently the King who is its chief Member) to ruin Word and its Peace, or the Order of publick Judgments, by Refus- write, but ance: Yes, moreover, if after a total breach of his pi- Fall and even with the whole or Major part; it be known to them Deed; for and they be in Capacity, safely to declare the breaker of Acts are no less evidence of consent then express passion. Hence, who can deny it our first, or last, Agreement was, that our K's should make, (and con- sequently unmake) no Laws and impose no Taxes but in Parliament; and should Govern according to these Laws made in parliament. Whence is the Essential form and kind, and so the Fundamental Law and Constitu- tion, (as to the King's part of the Rectoral Contract) of our Government. Hence if a King emit and execute Edicts, which (in effect) annul the Constitution, and so the contract (as K. J. did) he annuls thereby his rig- ththerein, *Nihil enim nulluz sunt affectiones*. This is clearly decided by Scotch parliament, and that when it had the effect of changing Fundam- gals under consideration: V: *Acta for the Union of both Kingdoms.*

† Hence appears, that Neighbouring Princes have right to vindicate injuries done to the persecuted flying to them.

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cluded ; yet do it not ; but freely continue in Social Acts  
(and so renew Society) with him, they can never de-  
clare this new \* Contract broken on Violations of the An-

\* So the  
series, since Divine and Humane Laws obliges us morally, Sovereign  
to keep Sacredly a Valid Contract, Tam re, quam verbis cannot pu-  
nition.

But if a King break his whole part of this Rectoral Con-  
tract, with all or the Major part of the Body Politick, (or breach  
(viz. he [tho having power as to the matter, and the Laws ) of Sub-  
determine the manner] Negatively, does not protect jects; if  
from, but positively expose them, to, their most Mortal be known  
Enemies Abroad ; and does not Justice, but the greatest it, could  
Injustice to them at Home ; and to enervate all Laws safely pu-  
which lye in the Road of effectuating both, alters the Con- nish them,  
stitution it self[ by Word, Write, and Deed] from Legal yet treats  
according to, to Despotical above and against, all these them as  
Laws) then he ipso facto, loses his right ; and they are eo Subjects :  
monstrous, free of their part also ; tho metu & majori (for that  
Liberals,

as factually, as the most ample Indemnity ; Qui enim vult con-  
quens, vult antecedens sine quo ad consequens perveniri. nequit.

\* So a Prisoner, is not de jure, in the power of his Creditor after Dissolu-  
tion of the debt ; tho he be forcibly retained, de facto, therein : And a  
Wife forced to Bed with her Husband (after his Adultery) may pursue  
Declarator of Divorce ; notwithstanding that injurious communion.

\* K. J. Did this most evidently. 1. As to Abroad ; exposed us to  
Foreign Enemies, (Popish Prelates, Jesuits, Priests, French, Irish, Pa-  
pists) and so to Foreign Jurisdiction and Powers ; which invaded all.  
2. At Home ; for not complying to Popery and Slavery, all Ranks of  
Subjects (Clergy, Nob. Gent. Com.) were Rack'd ; all that was dear  
to them (Relig. Lives, Fort. Libert.) being Attacked : for putting in  
fit Instruments to that end, all the parts of Government (Eccles. Civil,  
Mili.) were illegally Administrated ; and so, all methods taken (in judge-  
ment by Unjustice, out with the same by Force) to Consummate our Uni-  
versal Ruine. 3. K. J perceiving, that Limited Power and Parliaments  
(while Existing) were insurmountable Barres ; did Abdicate his Legal  
Power (as useless to introduce Popery and Slavery, and to justify these  
Acts preliminaries thereto,) and usurped in its vacant place, an boundless  
power above Law ((which alone, he knew, was sufficient and so altogether ne-  
cessary) whence (Law being the Great Civil Charter, of our Reli. Liv.  
Fort. & Libert.) he, at one blow destroyed our All. This power, he told  
his Parliament he would stand by, owned in his Declarations for Suspen-  
ding our Laws, and would not govern by any other all the last part of his  
Reign : But since Britain was too strong to suffer the Execution of that pow-  
er in all particulars at once ; he proceeded piece-male, especially in the  
important Generals ; and so first annulled (in effect, tho cloaked with the  
Word, Suspended,) the Laws for Religion, and consequently the Grand  
Proprietie of all. 2. Subverted the Constitution of Parliaments (in exclud-  
ing

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ing in effect the Barrows, and corrupting [by Money, Threats, and Favors] other Members, to gain the major part; because they are in Praise of the happiness and safety of all. But finding this would not do the Work (when once the Signal of what was to follow would appear) He kept up Armies in time of peace, which by the sword bore down all, &c.

it can neither prejudge them, nor [ex proprio delicto] prosecute him; they stop a small time from decimating it. In a word, such Veneration is due to the very name of Majesty; and justice in admitting the putting of failings, even in private Contracts; that they have only right to Petition (in the first place) which failing, to Demand by Arms (if all or most concurreatively or passively) under the next in Blood; which also failing to declare *Quod in re est ab initio*. **For**

As to the Reckon Contract; whether the Royal Right, arising from it, was *Donatio mera* or *Donatio sub modo* of that mighty Power and prerogative; it ceaseth <sup>4</sup> by flagrant Necessity or neglecting the *modus*: or if a Contract of *lex pacis* with the Body Politick (whereof that King is instrumentum in eis <sup>†</sup> the great Director and Head) total breach of his part, contrari- Liberates them from the necessity of performing thereon: sum, quia Or if a *Commissum* to an Supreme Arbitr's Determinations; Notorious unexpected Injuries annuls the Submissions. Delinquens Obligation: or which of all these; Allegatorius <sup>5</sup> first given for our Protection (not Destruction,) and so, dolus fur- Cessante causa cessat effectus, causa data non scorsa. Hence, the surus non all the most Sacred Obligations (enjoyed by Laws Divine and Human, and sworn in Oaths, without any exceptio- nes. D. <sup>6</sup> *cite exception*) of Inferior to Superior be conglomeration D that King: Yet he, as Liege-Lord loses his Superiority by

<sup>†</sup> The hainous Feudal Delicts against his Vassals; as Father, nature of *Sicut ad Patriam delendam veneris*, may be remitted <sup>7</sup> by his Trust or Sons; as Husband, by Adulterating and Deserting his, Mandate frees his Wife from her Bond and Oath: as *Pater amicus in se farr jus patronatus*, by not alimenting his solemnly confirmed changable Libertins; as *Pope ad extra*, by enormous Crimes, gives <sup>8</sup> to be free scope to a General Council; or, Finally, as Master, Irrevoca opens door (at least) to the Altar for his oppressed and ble( <sup>9</sup> in almost destroyed Slaves.

offices heretotale or ad vitam) yet it cannot admit, that when it is not performed according to the Instructions agreed on, betwixt Mandant and Mandatar, (much less when contrary thereto) it should not cease of Culpm & Domum. *Post Deum, nemo artius ex contractu, praecepere iurato, non subditus* (quo major fides, eo, artius vinculum) ac preiudicatur ad omnia ex eius essentia ab ipso inseparabilis) proficiuntia, Bruiitem: ad l. 31. ff. de Ley: Art: Heb: c: 1: v: 2: 4: ult: c: 11. 9. 7. *suscenim Dei, Nat: & Gent: eum ob* stringit. \* Vid. Cit. Brun. L. 35. Relig. & Sump. Fun. ff. As

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As to his Un-kinging & himself ipso iure, & so being sole  
dict, i. his eneis-breaking his part of the Rector's Con-  
tract by changing ( quantum in se ) the Form of our Con- \* There  
stitution ( from Legal to Alleged, Limited to Unlimited, are two  
the Right to a Second, iuxta Legem supra & contra Leges, fundamental  
and so designata ( Nova ) cannot but Annihilate ( isto talibusque  
him ) its Essences: For Indivisiuus ( of these ) est exclusio of our Go-  
vernour: they being Inconsistent ( contraria, final subfifice verment  
non possum ) in eadem individuo; Forma dicitur qua Essentiam and con-  
tra prefatis, Forma, ergo, mutata, proprieitatem rei Substantia; sequen-  
tiam, ab auctoribus videtur quoniam corpus manet Forma mutata by the  
of, ideo corrupta reddita sunt vel transfigurata videntur ab- King's  
ego. Hence, he investing himself with the one ( as dif- Right.  
ferent from our Constitution as Democracy, and more  
important than Subjecting us to a Foreign Prince ! ) Di- viz. that  
vols himself of the other; and so, zds. ipso facto \*, Abdicates his sole Legal Right, ( i. e. voluntarily Rejects and all the  
Abdicates his sole Legal Right, ( i. e. voluntarily Rejects and made in  
Renounces it ) and Deserts the same, ( i. e. Rem abicit, es parlia-  
mentum tam amplius Agnoscoe noluerit ) and consequently that  
therefore he that Right ( i. e. Exauctores and Denuds him- that  
siches of ) so that the King and Right dies, and is gone the King  
( who the Person, and Possession remain ) and that ipso iure: admin-  
For, " Amittitur, ipso iure, potestas Dominica in Serum quem fratre ac-  
" gravi morbo Decumbentem Dominus negligit ; Patria po- cording to  
these laws  
But K. J. after assuming Despotick power, did exert the same in  
making ( V. G. nothing but a Law could qualify Papists ) and unmaking.  
( By annulling the Laws Incapacitating Papists: V. G. ) Laws without  
Parliament, and Administrated against all the Laws; and so broke off the  
two Fundamental Supports of our Government and his own Right: Whence  
slavery Subversy both fell, ( for how could the Government subsist  
when destroyed, and how would his Power remain after quite Annihilating  
that by which, and in which, he enjoyed it ) and so he Unkinged himself,  
ipso Iuso factio.

\* For the power of the Governors is more important than what persons  
hall Govern.

\* L. Julianus Sect. si quis rem illud Exhib.

† L. 13. Sect. 1. L. 14. ff de V. S.

\* Abdicare ( inquit Nonius ) est abdicere; rem ( certis de causis )  
ste removere, nec deinceps agnoscere velle. Abdicatio se tutela  
i.e. nolle esse Tuitorem. Abdicatio Unius opponitur Adoptioni alterius.  
Plin. L. 7. C. 45. Hinc Abdicatio se Magistratu, est, ante tempus  
Magistratum deponere; se privatum reddere; L. 2. Sect 13. ff.  
Or. Jur. unde Senatus de P. Lentulo; comitie prætoria Abdicasset, in  
Custodiam transferretur. Hence appears how K. J. did Abdicate his only  
Right, as clearly, as by a written Renunciation under the great Seal; and  
it was declared so, by the States accordingly. † L. 2. ff qui fin: Maxumis.  
Which Law is called Magna Charta Libertatis Belgica.

ref. 23,

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" soles , ipso jure , incertis Patri filium exponenti , aut  
" expositum scienti ; Mater ( Tatrix ) ad secunda uota transi-  
" ens , perdit , ipso jure , Tunciam , & omnia privilegia , prioris  
" Matrimonii ; quivis Tutor post Cognitionemque suspecto incho-

\* pacius " atam , amittit , ipso jure , jus Administrandi \* , idem in quo-  
cent . s. Q. " cunque Officiali , pendente questione delicti ( de quo per Infor-  
79. " mationem Preparatoriam constat ) in officio commissari eique

† Brun. " Contrarii † ; Dominium reddit , ipso jure , ad eum qui rem tertio  
ad L. 14. " dedit ut se aleret , si alter fidem frangat || . Hinc Jurisdictio  
ff. de So. " & Majestatis iura , ipso jure , admuntur Imperatori , Papa ,  
Iust . ibi. " Episcopo , &c. Monasterium ingredientibus ; aut quod aqui-  
Cic. " pollens est Facientibus \* . Even so our engagements be-

|| L. 1. C. ing Correlati ( tho † unequal ) stand and fall together  
don. sub. ipso jure .

mod. ibi. This Ruptio[n] of the Rectoral Contract , and irritancy  
DD. of that Kings Power , and so Interitus of his King ship

\* Limn. thereon || , ipso sue factis & ipso iure ; does not dissolve \*  
de jur.

pub. Lib. the next's Right , is as immediately from [ by the first  
2. C. 11. Contract with ] the People as the preceedings was ) but

makes way for , and devolves the Regal Right on , that Per-  
† For one son ( iure proprio ) as Heir to the late King || Civilly dead .

Treason

( or breach ) of a Subject puts him out of his Kings protection ; but a tract  
of Tyrannies , against the major part of Subjects , is necessary to discharge  
Allegiance .

|| Sic Testamentum dicitur Ruptum , & Irritum fieri , cum ip-  
so jure concidit .

\* Hence the Votes declaring the Throne Vacant , implied and supposed  
a Throne , and so a Crown , and consequently the existence of a Kingdom :  
and thereon the Conventions of both Kingdoms did agree that the Monar-  
chies remain Successive . Vid. Journ. & Rosenth. c. 11. con. 22.

|| K. J's. Resolutions and practices thereon , demonstrate that the Laws  
were not intended to be the Rule of his Government ( but his own Will and Il-  
legal Counsellours advice ) whence , Non est Rex ubi dominatur voluntas  
& non Lex as Bratton testifioth ; And Rex ad hoc est constitutus  
ut populum Domini — regat , & ab injuriosis defendat — quod  
nisi fecerit , nec nomen Regis in eo constabit . Laws of K. Edw. the  
Confess. Sect. 17. Mors Civilis est , cum juris Civilis ratione aliquis  
pro mortuo numeratur ; intereunt enim homines . capitis Dimi-  
nutione ( L. 64. Sect. als pro Socio. ff. ) Res dicitur Mortus qui quis  
Locupletior non est . ( V. II. in Lex. iur. ) Sic Plantus , tem mortuum  
& occisam , dixit , pro fracta & perdita . Hence , Jacobus Rex , est  
Mortuus as to his King ship & patrimonium Coronz ( and that Concre-  
tly ; for Abstractly , Rex non moritur ) and consequently his Heir succeed-  
ed thereto , and is obstricted for his Debts Regali & publico nomine  
contracta . But Jacobus as to his person & patrimonium privatum  
Lives ; And consequently that Heir cannot ( as yet ) be , H[er]es viventis  
quatenus

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quatenus est vivens, and so obliged for his Debts personali & privato nomine suscepta. So it is in other Heirs of Entail: as all Lawyers agree. This only per indicem. Only remember; that by the Roman Law Bona Damnata ad ultimum supplicium (& sic, civiliter mortui) aut deportati (& sic naturaliter viventis) transibant in Heredes usque in tertium gradum: sic habemus heredes viventis, (Naturaliter.) Nov. 134. C. ult. auth. bona. C. de bonis Damnatis.

So jus Patronatus, ipso jure, acquiritur Heredi Patroni (non Filiis) perduellonis, aut alterius Criminis, etiam damnati \*; \* L. 4.  
Opera servorum deportatis transmittuntur ipso jure in ejus Hera- ff jur. pat.  
dem; Jus Familia Filio accrescit ipso jure, quamprimum L. 5. C.  
avus, (qui Neptes habuit in Potestate) illud amiserit; jus im- ed.  
perii devolvitur ipso jure in Regem Romanum, Imperatores Re- † L. 2.  
moto: sicut, in Naturalibus, Corruptio unius est Generatio al- fin. ff. us-  
terius. Yet that Heir cannot Exercise Actions Hereditariae usf. leg.  
before Solemn Entry or Adition; and the Throne can- 161. DB.  
not be entered by one till it be declared Vacant of any o-  
ther (nam non esse & non apparere paria sunt;) therefore  
Hereditas faciens (qua interim Nullius videtur) interim vi-  
tem defuncti sustinet in necessariis; And so necessary Legal  
(not voluntary, Illegal) Act (quatenus sunt ob interesse  
tertii non in favorem Civiliter Mortui) after his Forfeiture  
and before Declaration thereof, are valid, as Founded  
on (still standing) Laws, ex Tacito, consensu Heredi &  
Populi, & compromissorio partium ||.

Finally, the Heir's right appearing also, by Declaration,  
on, and its Exercise being accepted *eo nomine*: Aditio re-  
stituta trahitur ad mortem defuncti; and so excludes all others  
born, or to be born, to him after his Civil Death: For  
an After-Birth (tho never so certain) comes too late, to  
overtake any Right, aut tollere jus Quasitum tertio: Since,  
tho it pretend to be Filius Jacobi, it can never pretend to  
be Filius Regis; nam non est Rex ubi dominatur voluntas, &  
non lex; Bradton. Et Rex ad hoc constitutus ut Populum do-  
mini regat, & ab injuriosis defendat----- quod nisi fecerit, nec  
nomen Regis in eo constabit, Laws of K. Edward, consil: sec: 17. \* It is the  
So in the former instances, the Right is acquired ipso jure, law of  
to the Child born before, not after, the Father's admitting Nature,  
it; & dominium ex priori matrimonio patri quasitum, acquiri- that,  
tur, ipso jure Liberis ieiunis Matrimonio (eo ad secunda vota when  
transante) exclusis Liberis ex secundo Matrimonio Procrean- there is  
tibus; & Dignitas acquiritur liberu ante Patri dignitatem, non no judge,  
post eam amissam, suscepit. Horam: 2: illus. licet uni

The matter of Right betwixt the Antecessor and Successor being thus Naturally stated; the Question is, who shall declare what is dubious therein, and witnesseth the truth dice te  
of the matter of Fact. None of the Parties singly can do vindicatio  
this, the matter being *propria causa*; Therefore the \*People re. tir. c.

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(as equally interested in both,) with consent of the Successor (at least) in a Convention have right to do it; since it is impossible that the GOD of Order, Peace, and Government, should not allow this only mean/ their being no other under Heaven ) of eviting Confusion, War and Anarchy: Especially when the Antecessor hath thrown up the reins of Government, and so given a full Career to their Liberty, by burning the Parliament in Effigie, throwing the Great Seal in Thames, and then an incontrovertible final Desertion.

\* They were the Conventions \* then, being called (with advice of some, and Homologation of the whole body Politick) by the next Prince of the Blood (or Prince's Husband iure Mariti) are founded on both the Fundamental Laws of the Rectoral and Popular Contracts, and so both Oblige all to Submission in their Determinations. On the Rectoral; for the Regal Right (tho lurking unproclaimed) is really in that Prince as Head. On the Popular; for Conventions may, have, and must convene by Warrant thereof and Custome, in case of failure of the Royal Race, Infancy, Fatuity, Desertion, or written Renunciation of a King, to choose a King, make a Protector, or declare the next Successor (when dubious;) much more in our case, which is Equivalent to, if not more important, than any of those. Tho they have no Authoritative Power (to make Laws) nor Judicative (and so could never take the Late King's, yet remaining, Natural life for any Actings while their Sovereign) yet they have with manner. content foresaid a Power Declarative ||; (For it, sua natura

|| De-rā, imports no Superiority) of what already was Law; clarare

est clarum facere, unde declaratio est testimonium perhibitum de vetera consuetudine; aut præteritis factis. *Valla. Demonstrat: lib: 1.* Hence Declarations imply no Authority or Jurisdiction over the person, in relation to whom, Standing custom and past facts are declared: for Relponsa prudentum (Romanorum) do bind the Parties over whom they had no power, and parium curiæ, the Superior, in dominio directo. Consequently, the Body Politick declaring the Late K. James to have Abdicated and Forfeited his Right, and the same to be in K. W. and Q. M. imported no Authority or Jurisdiction over either. For Inferior Courts have power of declaring Right betwixt the K. & an ordinary Subject, much more a Supreme Convention betwixt him and the next Prince, when otherways, all the Subjects would be ruined: Especially, seeing the Rectoral Contract is in Naturæ, Prior to Sovereignty and Subjection (for these are its consequences and Effects;) Whence (as to it) the preceding Sovereign, and the Succeeding together with the Subjects, are unsubordinate, and so may force performance thereof, or declare free, as other unsubordinate States do in their Contracts with a Neighbouring Prince. The Effect of Declaration is (not only from the time thereof, but also) remitt

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*time of the Right or Deed declared / Leges Declaratorix V. G. exten-  
dunt ad posteriora ) and so; 1. The deeds, by which the late K. J. annul-  
led his right, being before the Conception of the ( pretended ) Prince of  
Wales; he ( that was ) can have no rights, no more than if born 20 years af-  
ter Declaration of them. 2. The Præ-Declaration were necessary to ex-  
clude him? yet since K. J. surprest that, metu Majori ( of the French  
Allies, standing Armies, and our Enemies possessing the Civil and Mili-  
tary Troops ) and otherwayes, the People would certainly have made it  
when K. J. set up ( openly ) his Power of Enervating all Laws, and so making  
all Religious and Civil Rights Precarious ( as is evident, by some of all  
Ranks inviting, as the Sense of the whole, the then ) Prince and the whole's  
[ Adversely or Passively ] therefore rising with, and declaring for, him in  
all Corners; and that before any Act of Hostility by him in the Respective  
places. ) their Post Declaration how soon the Impediment was removed  
must be equally Effectual. Nemo debet Lucrari ex alieno delicto.*

and what was the Rectoral Contract; &c the late K's breaking  
his part thereof; and the ipsum jus of his Abdicating,  
Deserting, and so Foreconsulting his Right, thereon: and  
consequently the Throne's being vacant as to him, and all  
born after ( but not before ) that omission; and ( if the  
next in blood be Maritata ) her Husband, and her,  
to be King and Queen, and the sole Administration  
and Survivorancy to the Husband: For, the Law al-  
lows all this to the meanest private Subject ( being an heir  
in Remainder, after Waste made by his Father on the en-  
tailed Estate; and being an Husband, Jure Mariti & jure  
Curtesia ) much more to a Sovereign Prince \* where the  
publick welfare of all Subjects is concerned.

Hence, since no such Change can be made but by the  
whole Body ( against which, at the dying gasp, its impossible,  
by any Doctrine, to ensue the Head ) and that to  
the next of the Royal Familiæ ( the Laws for Coronation  
Oaths precluding Papists ) whereby the veneration to it  
( beyond any upstart ) is preserved, and no Foreign Suc-  
cessive Princes engaged against ( yea they are deeply con-  
cerned [ since the questioning the Peoples Power were, the  
shaking all their Thrones, and making the World a field  
of Blood ] for afflicting ) the Preparative of such a Settle-  
ment: This great and sure Title, so declared by the de-  
termined Body Politick, is not only founded on Justice  
( that they may Bolt the Door on one [ not thrust out by  
them ] rather than Multitudes should be destroyed ) but  
also on the Common Interest of all Mankind both Princes  
and People ( therefore engaged to maintain it ) as the con-  
trary Doctrine ( by encouraging Princes to Tyranny, then  
exposing Subjects to Misery, yea, at last, bringing infamy  
on dejected Majesty it self ) ruines both.

None of the very Words ( much less the Legal sense ).

\* *Iisdem  
succes-  
oris legi-  
bus Regna  
subiecta  
quibus &  
Feuds,  
tenant,  
omnes;  
fayes  
Craig: p:  
128: dis/p.  
Feud:  
1: 6: 21.  
Schon,*

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of our Municipal Laws strick against this Doctrine. For  
\*Quod tho that King was Absolute (*Solutus*) i. e. a free Prince,  
non ex- whose Person was Subject to none, Pope, Emperor, or  
presse People; yet no valid Act ever declared his power Absolute  
mutatū (i. e. *Solutam Legibus*) or tho it had, yet, by leaving unde,  
est, cur termined \* *Modum Administrandi* ( which is *res diversa ab  
hice pro ipsa potestate* ) referred the same to other Laws requiring,  
hibebi- in that, advice and consent of Parliament. Hence; tho  
tur? So

a Minor hath Absolute dominion of his estate, but cannot Exercise it without  
consent of Curators. The Athenians could not determine unless advised  
by their Prz-Conultores; nor Romans, Nisi Senatorio aut ple-  
beio Magistratu Interrogante; nor Dominus Feudalis sine patibus  
curiꝝ. So all of them had Absolute power and Rights. From which  
Examples came Parliaments, because Kings might err in Lawfulness or Ex-  
pediency. Hence, seeing the Rectoral Contract was not with, ( and so could  
not be changed by ) these Parliaments ( but the whole Body Politick ) the  
Commissioners thereto had not power ( mandati fines excedens nihil agit )  
nor, tho they had, can be presumed ( Donatio nunquam presumitur  
nisi in quantum est necessaria ) to render that whole Body-politick Slave,  
( quz dominio alieno contra Naturam subjiceretur ) by one word:  
in giving or declaring ( which is equivalent and one, as to the constituents )  
so that K. jus vitz & necis, over all though innocent; Right to demand  
all our Charters, Dignities, Estates, Goods, and Services ( as Pharaoh )  
yea the parliment it self to resign its power; by declaring an Active Obedience  
in all things lawful ( these being incommoda non illicita ) without  
Reserve. In oblieging the whole body -- ( headed by the next in blood )  
not to controule, though he made and unmade all our Laws; imposed Taxes  
on us all; rescinded our Religion; took to himself all our Properties; de-  
stroyed all our Lives when not complying to those things ( for which Papists  
would rejoice to be commissionated by him, that they might gain their own  
Souls and our Estates ) for the utmost extent of passive Obedience without  
Reserve would comprehend all this. But general Declarations ( taken in  
such sense ) are null without a special Mandate ( mandatum generale  
ordinarium non comprehendit donationem inusitatam ) for none  
will say that, without that, terrified or packed Commissioners could resign  
in the K.'s hands immediately ( mediately is the same in effect ) all the  
Lands of, or wit' his assent ( alienate) the Kingdom; or subjugate it, at  
a Province, to another, argumento à minori ad majus; Neither  
could they redact us to the foresaid case. Such Declarations, therefore, are  
like other general Rules and Maxims of Law which have their inherent  
exceptions; Et vix est ut aliquo casu subverti non possint. Juri,  
enim, loquuntur de his quz frequenter fiunt, ( non quz raro, quod  
enim semel aut bis accidit prætereunt legislatores ) ergo non de-  
bent ad casum qui raro contingit adaptari. Semper interpretanda  
Lex ne sequatur absurdum; & in dubio quod minus est sequimur,  
præfertum cum materia est Favoribilis, Religio. sciz. Vits, Liber-

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tas res inestimabiles. Piores, denique leges trahuntur ad enncleandas posteriores (mutatio non presumitur) nec quæ salubriter, de novo, introductæ sunt, duriori interpretatione ad severitatem producendæ: ultimo, necessitas, nullâ coescetur lege; deficit enim culpa, deficit dolus. Leges & DD: in tit. ff. de Legibus.

in so farr, and so long, as he had Regal Right he derived it originally (by the channel of the People) from, and held the same (in Tenure) of, GOD alone, (the People being divested) that did not impede his Voluntar Renouncing || The it]. Subjects did not depose their King, but after his holding a Spontaneous Abdicating, Deserting, and Forfeiting Rights that Post, declared it to be so. Whence the Conventions from mett with the King's Licence (whether Antecessor's King nomine, or Successor's, re) and we did not resist their Commissioned by the King but private Men [their Commissiōns being Null] or at most, his Un-kinged Person, and so in his Natural (not Civil) Private (not Publick) Extra-judicial (not Judicial) Capacity. Finally our Oaths were Declarative of old, (and not Constitutive [as to the matter] of new) Right; and so as Accessories to, did fall with, that right, their Principal: just as the Debtors Obligation falls, when the Creditor cancells the Bond to which alone he had sworn to.

Nothing in the Old Testament impunges this Doctrine; jus maior (not only the Powers, but) the Persons of Kings, in riti) when the Jews Theocracy, were immediatly of God; which they in Celestial Designation few now can produce. Nor in the New; for the Apostles speak, either of the Powers (not the Persons) that are (in the next of Blood and the People in our case) or of the persons, but to the Christians, who were then the farr 3d: Minor part: And so a Disparatis nulla est illatio. Nor in Examples of Primitive Martyrs, for the Law and to the Contract was (not for, but) against them; and they were not near the Major part of the Empire. Nor in Elogies of the Ancients, for they are (not of Tyrants, but) Kings; then whom there is nothing so transcendent in this inferiour Orb; while they remain the Vicegerents and Images of God's Power and Majesty.

As to Conquest making way for both, I know no solid Objection against such captivating Light, but one, viz. There was a necessity that these Conventions should have had (not only this Inherent Power of their own, and the next Princes Co-incident consent: but also) all power K. J. could, as yet, pretend; joyned to, and consolidate with, theirs: that so, there being concursus plenitudinis omnism poteſtatum in them, their Declazatorie-Statutorie power

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Power (as Lawiers speak) might unappeasably and uncontroversibly determine the foresaid matters. Resp. The Estates had (by an admittable Providence in the Right, as well as Fact, of this Revolution; to stop the scruples of all) such an Extraordinary Power; which the following Discourse does demonstrate by this Deduction. All K. J.'s, yet remaining, right and power did accrue to the (then) Prince as the Effect of K. J.'s being Conquered in a Just and Solemn War, and thereafter was transferred by the Conqueror to the People; so that they were (pro tempore and as to K. J.) free and Independent States: Whereupon, having Paramount and (to K. J.) unsubordinate power, they declared the Throne's Vacancy of him, and W. and M. King and Queen: which (since they [if anxious of final Ruine] might have Re-entered under K. J.) is, what we understand by Right of choosing the time of the Heirs succeeding.

The Honour assigned a Superior, Patron, and Judge, even after Refutation of their Rights, requires a greater Respect to the Sublimier Character of an once Crowned Head from the worst bred Pen: Wherefore nothing shall be Remembred of the late K. J. but Notoribus and unconcealable Fact; which himself esteemed and esteems (as in *Bonum Ecclesie*) his greatest Glory; and in which, we have the deepest sorrow, he w<sup>t</sup>; and is, misled.

The Jesuits being of such Admirable Wit; and great power in all Corners (by the Art [inconice enlaving the Souls] of being Masters of the Bodies and Estates of Subjects) and knowing the reuestest Servets (because Confessors also) of Neighbouring Princes: it is no wonder that they became the Poles whereon, the Cruel Zeal and boundless Ambition of aspiring Monarchs, should turn over their Subjects, and (once possesing that Strength) their Neighbours. Hence, by their Executable Counsels, Religion and Liberty lost, since the last Age, more than half ground and so become Northern indeed (being utterly destroyed in *Hungaria*, *Bohemia*, *Austria*, *Silesia*, *Syria*, &c. *Polonia*, *France*, the New Conquests; and *Piedmont*) before Popery and Slavery dark advance bare-facedly (knowing, the difficulty, of old) to attaque *Britain*, as the Bulwark of what remained unconquered. These Monks (having first reign'd the two branches of *Austria*, and then, almost that of *Bourbons*, in purture of bringing an universal thralldom on Europe) pitched on the late K. J. as the Kiling Sun of their Hopes; (in conjunction with *France*, from whom Civil Interest had broke off all others) repair their former Credit in policie, and perfect the

greatest

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great Work in Religion. *Brittan*, therefore, must be first won ; and the Stratagems were really exquisite. For,

It is well known how powerful a party the vast riches of the (then) D<sup>r</sup> of Y<sup>e</sup>; and his Religion ; and the French gold, had purchased to him ; whereby he became (*prae-vesto terminis*) Author of the A<sup>t</sup>tings ; in the end of Ch<sup>r</sup>: 2d<sup>s</sup> Reign. Protestant plots were forged, to drown the noise of the Popish, and cut off the most eminent Heads, who refused to bow to Baal ; Parliaments dissolved, that Court-Criminals might escape Justice : Penal Laws against Protestants, even, stretched, that we, being set against, might destroy one another, and the next Reign appear auspicious : Protestants abroad endeavoured (in combination with France) to be ruined ; that our assistance from thence, and the Northern Heresie, might be cut off at one stroke ; to that effect, Divisions at home and abroad cunningly fomented, that, *dum singulis pugnarent, omnes victi* ; And mercenary pens set at work to prepare our minds for that Non-resistance so necessary for subverting all Religious and Civil Rights here and elsewhere, &c.

Such was the preparative Prologue of K: J<sup>r</sup>.s. reign. The French Original necessarily required to, throw off his Legal power (as altogether useless), and usurp, in its vagrant place, an Arbitrary power (as Absolutely necessary) to introduce popery and Slavery : The Actual Exercise and Effects of which power to the destruction of our Souls, Bodies, Lives, and Estates, (good patriots being cut off for opposing it, and their goods necessary for maintaining it) is the only Scene we shall view in this Tragedie.

Our Souls were ensnared ; by the vigilant Siege of priests and Jesuits let loose on our unfeigned and exposed Religion : by illegal Oaths : by Denunciations, not only to be turned out of all trusts if we betrayed not our Conscience and Countrey ; but also (Intimation) by certain Experience that we should lose Lives and Fortunes if (remaining Protestants) we had any Action Criminal or Civil with a Popish Adversary : by Ecclesiastical Commissioners enforcing the reading K. J<sup>r</sup>.s. Declaration against duty and perdition : by sending young Noblemen and Gentlemen Abroad to be bred Papists ; and perverting all Ranks with the baits of Countenance, Picternents, and pensions, &c. Our Bodies were inflamed and Lives exposed, by Arbitrary Requisition of Obedience without Relieve : by an encroaching Privy Council : by illegal Imprisonments : by Standing Forces in time of Peace, who acted the greatest Barbarities, without any Leg<sup>l</sup> Warrant : by (at the same time,) disarming Protestants ; and Summar illegal Tryals ; and illegal Tortures ; and

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by inspicing, (even Legal) Criminal Judicatures to give  
the horridente Sentences, &c. Our Estates were invaded;  
by subverting the Charters of Burrows: by Free Quarters;  
by illegal Taxes; personal protections; and exorbitant  
Fines: by Dispensing with our Laws (our great property  
and Birth-right;) by Ecclesiastical Commissions, whose  
Effect and Design we saw in the Bishop of London and May-  
dalene College (turned out of their Free-holds) and  
might have seen in all the not complying Clergy of Eng-  
land: by over-rueling Civil Judges (*ad Bene placitum*)  
with the uncontrollable Authority of great Ministers, or  
private Letters, &c. All directly contrary, and in open  
Hostility, to most clear and known Laws.

It had been a hard pull to have come this length, if the  
two remaining parts of the Example had not been copied,  
*viz.* As to Parlements, and Disimulation. Therefore  
Parliaments (the great Fence of all that is Ours) were broke  
down (by being discontinued; and at last [ by , in effect,  
excluding the Burrows and corrupting and terrifieing o-  
ther Members, yea making Legal Elections impossible])  
to be totally Subverted) and we were soothed by the So-  
lemnest Oaths and Declarations for Religious and Civil  
Liberty; (as Eve by the fatal fair Apple, or, thereafter mal-  
ficed Guests, by being invited to a Marriage:) Thereby  
allowing us (a while as yet) to judge the Substantiation,  
by the outward Species; but intending (as is too evident  
since ) after kissing, to thrust us under the fifth Ribb \*.

\* If any be so ig-  
norant or impudent to aske gion; obligeing under pain of Damnation to Murder,  
Probation and in order thereto, to cheat us: or Experience there-  
for these of, in the Massacres of Waldens, Bohem, Germ, Dutch,  
things; so French, Savoyans, Irish old and late, and our own British  
Notoriouse plots; or thence Law; *Semel malus semper malus in eodem*  
*notoriensi-geperi Malitia:* or finally Logick; for if scarce 4 years  
tare fac- Reign did lack us to such a State, what ( a majori) would  
ti; it is 8th, & an Immortal popis Successor have done? it the (then)  
answered: P. of Orange had not delivered us: since all being acted  
many of under the protection of, the French Allie; strong standing  
them were Armies; and professed or disguised papists, or villainous  
explcite-  
ly or impliedly, acknowledged by K. J. himself; and most of them by his  
Friends ( lic habemus confitentes reo:) and all of them proven per Nu-  
bem Testium (*viz.* The whole Estates) tho two be sufficient to establish all  
truth. The other causes that are kepted up and not proven by Witnessses (for  
reasons you shall know of hereafter) were Sutoriz tantum; wherefore  
cautiz sufficienter, Justificz, were only published, and only founded on,  
In p[ro]p[ri]es (then) Prince's Declarations. and

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and Mercenary *Protestants* (as many as could be had being absolute Masters of all Ecclesiastical, Civil and Military powers; could meet with no controul (even of late petitioning) from a headless multitude, but *praces &c* & *chryms*.

The remaining (True) Church, and (whole) State-Europe being, thus, like a Ship, which failed, and wou have sunk (Britain once lacked) together: and an Eafier, which undermined on our side, and the flame takir hold on this Rafter, would, *in totum*, Up: above all; web ſtng, the (then) P's Brethren and Neighbours (to be loved and helped as himself) and sick and in prison (to be visited by him:) if he had not heard such joyn't groans: incumbent Evils and impendent dangers, he had been leſs excusable then the two *Hector's* themselves; as the voluntary Spectators of the Roman Sword-plays were more Barbarous then the (by Zeal and Ambition) constrained Actors. But Piety commands that the Church \* of GOD be maintained; and Justice requires that Destroyers of Common-wealths be compelled to Reason; and Charitie challenges the Right of relieving and restoring the Oppressed: and in case of final inexorableness; it is lawful for a *Constantin* (requested by the Roman People) even to expel a *Maxentius*; though it be Criminal in a Personna to bring back a *Tarquinius*.

\* This is  
not, de-  
fending  
(with  
Armes)  
the Spi-  
ritual  
profession  
(for it

cannot be ruined:) but protecting the Temporal Professors, from being therefore, murdered. Hence, Christian Princes, after swearing (at the Coronation) to maintain the Church; brandish their Sword S: N: E: an W: which infinuates that there is no Region exempted from their care (for the Unity of the Church admits no Division, or Appropriation to one, in Extraordinary Dangers). This hath been decided solemnly twice, by the whole Christian World: viz: First, by the Council of Nice appointing the Indictions each 15. years to begin in October (which may be the date of our Liberty, also) on the day of Maxentius's being overcome by Constantine. (Onuph: Meicar: Hotom:) 2. By the Wars of the Holy Land; wherein so many (even Princes) dyed, and exhausted their Treasuries. Wherever, therefore, there is Truth in what is asserted; it cannot be said to be done on any pretext whatsoever, for (sincere) intention, and (seigned) Pretension are as different, and inconsistent in the same Subject, as Faun-tome, and Body, Ingenuity and Hypoctrifacie. This is the Natural signification of pre-text; Prætego, i. e. præ-velo; prætendo, i. e. ante tendo; prætextum, dicitur, illud Velsamen quo moveri aliquis videatur ad aliquid agendum, cum tamen alia Causa moveatur (Calep: indicti:) hinc (Suet. in Cæl:) & prætextum quidem illi civili-um armorum hoc fuit, causas autem alias tunc opiniantur; ut Cæcero [per prætextum] exprimit [per Simulacionem:] So Paul distinguishes, in saying, Whether in Pretence or Truth; and our Acts a par

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Parliament, especially of Char: 2d: / optimist interpretes what is implied thereby in the Test; / pretended Authority, &c. And the French, pretendue Reforme. Hence, since the Facts expressed and founded on by K: William, and the Subjects are ( to the World, and each Man's private conscience) perspicuous Truths, they proceeded on no pretexts: But he, as Prince, adopted Sons (as Pharaoh's Daughter the exposed Moses) and as King protesteth Subjects; as True Defender of the Apostolick Faith.

*Passive Obedience hath never got ( de facto, at least ) a larger Field than we have given it ; But now we go to allow the highest Prerogatives that ever ( de jure ) it could pretend to.*

## THESIS

## T H E S I S I.

*The Enterprise of the (then) P. of Orange, (a Supreme) by his Army (Forreigners) was a just War, both as to its Causle and Solemnities, or Matter and Form; and so must have all the Effects such hath had in all Ages.*

### P R O B A T I O N .

1. **T**HIS Enterprize, as intended to be, so really was a War; For there are only three States of any Nation, viz. War, Truce and Peace: And so we have no other Word but that of War to express the Nature of this Attempt, since it was neither Truce nor Peace. *"War is the State of two ( bellum quasi "duellum ) or more Princes contending by force and violence of Arms; Hostes non solum existimantur qui jam "separati aut terrestri praetio certant, sed pro talibus habendi & qui Machinas admoveant portibus aut manibus; "etiam si nondum pugnam incipiunt;* says Philo de Legib. The Effects of War by a numerous Army, after denunciation, cannot be called the time of peace. The Swordhanging over the head; Acts of Hostility ( tho indeed few ) on Persons, Cities, and Goods; taking and Garrisoning of mostplaces, are no wayes justifiable but in War: Since the way of *Faft* ( without form of Proces) would be an *unlawful, violent intrusion*, if it were not a *lawful War*; and (as K: J: calls it) in some sense a *publick invasion*. *"Hostes sunt qui nobis "aut quibus nos publice bellum decernimus; cæteri praedones aut latrones sunt.*\* In a word the mouth of a Cannon portends the pleading a cause by the *Law of Arms* †.

*Grotius.*

\* Hostes  
ff: v: ss:  
† v: Zing:  
in Grot:  
p: 531;

2. To preserve neighbouring Subjects from ruin in their Religion, Lives, Fortunes, and Liberties,

B

and

and procure re-establishment of their torn Laws and Priviledges ; with competent security for the Safety of all these, is a pious and most just cause of War. For After instituting Civil Societies there is a special and unquarrelable *jus quæsum* to the Rectors thereof, over their respective Subjects ; where these Subjects do by real transgression merit suffering, or the case is dubious ; And to this effect only was ordained the distribution of Empires. But if the injuries be most manifest (as these of *Bussiris*, *Phalaris*, &c.) the right of *Humane help* by Princes non-subject against such oppressing Governours is not precluded by this distribution of Governments. For it is the nature of civil Societies, that every one hath entered therein for his own benefit; and so this kindly protection of a neighbouring Prince so necessarily beneficial to us, is not against the nature of Society ; The advantage of this being also common to all Princes themselves, since he who (attacqued) is now burdened, at another occasion (when Attacquer) is thereby sublivate. Yea, this is not only, nor prohibited (there being no intrinsecal or moral pravity therein) but is also so far a positive Right belonging to Princes, that (each fearing his neighbour should use it) they think it necessar to exclude it in most treaties, (with this clause *causa justa aut inusta*) as Bodinus observes \*.

" There is one great Family and Society of Mankind, in which, *Reges, non unius sibi credite gentis habent rationem*; sed *totius humani generis*: even as (in Ecclesia turbata at least) he who is not Universal Pastor of the Church, is Pastor of the Universal Church, and hath a care and wareth (with his Spiritual Armour) accordingly \* : or as when a Master of a Ship, Father of a Family, or Husband of a Wife, (all Hieroglyphicks of a Kingdom) is hindered by the adjaceat neighbour (having no more Jurisdiction over him than one Prince over another) from irreparably injuring his Mariners, Servants, or Spouse;

\* p. m.

954.

*† Themist.*

*in Orat:*

*ad Valen:*

\* *Confist:*

*Clem*

*Univers*

*salis Ec*

*clesia*

*curam ae*

*cepisse.*

Spouse; there is no Delict committed against, but favour done to the *Maritime, economical, and Marital Governments*. And a King hath no more Right to ruine his Subjects against Law, than these ( constitute also in a ruling Capacity ) to destroy theirs, and so may be equally gainstooed by his charitable neighbour.

3. To profite neighbouring Subjects in what a Prince can, is not only Lawful but also Duty by the Natural Law of good Offices; and so what we see performed with so much praise, could not be omitted without blame. There is nothing more serviceable to Man than Man, for which also he is born; says *Sextus*: And so he should answer that end. *Brutus* commonly help their fellows: mercy and propensity to Advantage others begins even in Infants; which most proceed in both from Natural instinct. Many are the Obligations betwixt Men engaging to Mutual Aid; for we are Cousins by Nature ( says the Lawyers ) as come all of one Parent; whence *Solon* pronounceth the State happy where every one thinketh "as others injury, his own: which holds equally in the great *Plautus* *Grotius* <sup>2. 25. 6.</sup>  
*Plautus* *Grotius*  
*Principia* *Coniunctio* *qua vel sola ad*  
*Principia* *opem ferendam sufficit.* But the Conjunction of the same Faith also, addeth to, and maketh Indispensable this Natural Bond of Amity; For we ought to lay down our Lives for the Brethren: *And let us* "not love in word neither in tongue but in deed". *Natura* \* *John 2.*  
*Natura* *babemus ut indignationem nostram conjungamus cum iis* <sup>16, 18.</sup>  
*Natura* *qui male trahant sunt, etiam si ad nos nulla pars injurie*  
*Natura* *pervenerit, says Chrysostom* \*. And Princes, say- \* *Chrys.*  
*Natura* *eth Tacitus are like Gods; and so bear the Prayers of* <sup>13. de</sup>  
*Natura* *Supplicants if they be just: Et Fortitudo quæ defensat* *Pras.*  
*Natura* *infirmos plena Justitia est;* as Ambrose hath it \*. \* *Ambro.*  
*Natura* Whence it appears, that the Princes preferring the *L. I. Off.*  
*Natura* safety of an innocent Multitude to his Own was the *C. 5.*  
*Natura* highest Act of Christian Charity; and as the Injurie  
*Natura* was

was more signal to many than one; So also the Bene  
 fice. In respect of all which, the great Bodin  
 (speaking of this Question) does in reason conclude  
*De pulcherrimis omnibus factis Nullum illustrius est, quam  
 vitam, famam, ac fortunas innocentium ab injuria poti-  
 siorum defendere, quando judiciorum adiutor omnes ob-  
 sidetur.*

4. Injurie is the just cause of War; *Iniquitas pa-  
 tis ad versus justa bella ingerit* \*. And so there are as many Fountains of just publick War as of Legal private Actions. Action is granted for an Injury already done, or not done but justly feared. To evite a wrong justly feared but not actually done, we seek *Cautio de non offendendo; damni inferendi; interdictionis fieri*. If the damage be already done, we require it to be Repaired or Punished. Even so the three (of which one would suffice \*) just causes of War, viz.

\* Grotius Defence of what we yet have; recovery of what is lost. 2. i. 2. 2. and Punishment of our Oppressors are caules most justifying to this Pious War. For there are only two wayes to obtain Right from the Refractory, viz. By Actions and Accusations betwixt Subjects: And because these fail (there being no Terrestrial common Judge) War betwixt Sovereigns; “Bellum naturali-

“ter incipit ubi iudicia deficiunt” \*. And so since Natu-

\* Grotius rally every man is Executer not only of his own right, prol. 5. but also of an other's: and in the Natural state (where none was subject to his fellow, as now no Prince) 1. 2.

\* Gon. 4. subject to his) every man might vindicate Crimes. 1. 4. 1. 6. The Prince had good right to espouse our Interest, Grotius. and make our injuries his own, and so make War to redress them. “Plato \* judges him punishable who

\* De leg. 4. “binders not Violence offered to an other; Et Tulli-  
 “us, qui non defendit nec obficit, spoteb, injuria, ten-  
 “est in vicio quam si parentes, aut patriam, aut socios, Di-  
 “serat: So Euripides, præbens saxa Perfugium ferri, &  
 “raeque famulis, urbibus pressis malo tutamen Urbes: At  
 “Seneca, Succentram Perituro sed ut ipse non peream; nif-

*Si futurus ero magna rei merces.* Which last was the Glorious Resolution of the Prince, viz. to carry thorow this great Work or perish in the Attempt.

Tho, in extreamest necessity it were Criminal in Subjects to demand these things by Arms, yet it remains most Lawful in a Prince not subject to do it for them: Since when there is a Personal ( not real ) Impediment, to any Action; that which is not lawful to one is lawful to an other, if the matter be such as one may profit an other in. So a Tutor pursues for his *Pupil* who hath no *personam standi in judicio*; and a Defensor is admitted ( even without a Mandate ) for one who is absent and cannot defend himself. The Impediment which prohibits a Subject to resist comes not from the thing it self, Cause, or Matter, for that (viz. Defence, Recovery, and Punishment) is materially the same in Subject and non subject: But from his Personal quality of Allegiance; which being noway in, could be no obstacle to, the Person and Actions of his Highness.

5. Not only doth this Right as Adopted afford a just cause of War: But even the Prejudice done to Rights properly the Princes own. And that as he is Head of the *Protestant Interest*, and principal Pillar of that ( then much endangered ) Religion: As ( being so nearly of the Royal Blood ) he is thence concerned in the future welfare of these Nations: And finally as being obliged to hinder any Intrusion on his own or Princess's Rights, till the reality of the Birth were sufficiently cleared. In respect of all which, we might have exclaimed ( in case of Refusal ) with ( juster reason then ) the *Campani to the Romans*, *Quandequidem nostra iureti adversus vim atque, injuriam non valitis iusta vi; vestra certe Defendetis.* For,

Firstly, What Wounds the *Protestants* received in the Profession ( by Law established ) of their Religion, pierced his Highness thorow the sides; and so he was engaged, and had good right to cure them. For

\* 1 Cor. "For St. Paul ittaketh, that all the Members of that one Body, being many are one Body. And God hath set the Members every one of them in the Body, as is here pleased him. And whether one Member suffer, all the Members suffer with it. They must not love in words only but in deed, and shew their Faith and Charity by their Works: as is above remarked. Whence this effectually feeling one another's griefs and evils pertain not only to each single Person, but also to a People as such, and Princes quā Princes; who should serve Christ not for themselves (in private) only; but also (as to publick) for the Power which they have in their hands. When a house is on fire, the Insurer (especially) is bound to run to all Rooms where he may quench it: And when a Laik stricketh up in a Ship, he who is interested in the Cargo will (without, yet against, the Master's Invitation) labour to stop it. And so there being a great Family and Society not only of Mankind, but also more especially of Christians; in it "Religio contaminata ad omnium pertinet.

\* L. 4. C. "injuriam \*: And consequently more particularly of the injurings of his Highness. And they who invited him (at that time no Enemy to K. J.) to use his Right did no more then what is affirmed by Augustus t.

<sup>t</sup> Augus.  
Epist. 50  
" Maximianus Episcopus vagiensis Auxilium petit a  
" imperatore Christiano contra hostes Ecclesie; non tem  
" ulciscendi causa, quam suenda Ecclesie sibi credidit  
" To which end he used first all Peaceable Instances,  
and these not prevailing, this just War.

Secondly, In an Hæreditary Legal, (not Despotic and Patrimonial) Monarchy, the Heir, succeeds the Father (or other Predecessor) not to him; is not necessarily *Hæres Predecessoris*, but *Hæres Regni* by virtue of the first Contract, Law, and Custome: By right proper to himself, not Derivative from his Antecessor: Even as in a proper Feud (where the true Feudal Law lives) the Kinsman succeedeth by strength of the Original Investiture: or as a Substitute, in a commissi-

Rosenth.  
Strnu.  
Pift  
Franz.  
Lud.  
Zaf in  
Feudis.  
Mans.  
Lucub.  
Vatic.  
Tom. 2.  
Lib. 23.  
Tit. 20.  
a. o.

commis or entail, succeedeth rather to the Testator, then to the preceeding Institute. When it is certain who are Heirs to a Kingdom, *Simul atque existere caperunt ius proprium eis quasi sum est ex Lege* ( As the Roman & Grot. 2. Law affirms, that the Unemancipate Child is " *Vi.* 7. 26. " *vente Patre quasi rerum paternarum Dominus*; and the Patriarch's Servant calls his Master's Heir, Lord; And Heirs of a Kingdom have the same Right thô Emancipate, or never in Potestate ( *Heres quasi berus* ) from the Law it self which introduced that difference) Whence there Persons, Rights, and Eminencies are by Law specially secured. And so K: J's: even *plenitudo potestatis* could not deprive them ( since not the meanest Subject ) of the least present or future Emolument of this their Property, which was not in his Disposal. But if the Subjects were permitted ( by the Prince ) to be ruined in all their Religious and Civil rights, and the interposed Child tamely suffered to exclude ( without Cognition of the cause ) their Highness's Birth-Rights : It were in effect, Depriving them not only of the Emoluments, but also Substance of their Properties; being not to succeed at all but Disinherited, or at most to succeed only to wretched Kingdoms. Wherefore the Prince ( for himself, and as bound to defend and secure his Prince's Rights whether Present or Future, ) had a just title to prevent all Invasions thereon by obtaining a *Peregrin.* Legal Disquisition of, and then Caution for them, *Fid. Art.* which was all he ( fruitlessly ) demanded to be done in <sup>3. N. 29.</sup> *& Art.* Parliament. So the Substitute, in a *Fidei comiss in diem*, <sup>46. N. 10:</sup> may Legally seek Caution ( yea force Restitution before the day, if the *Fiduciare* egregiously abuse the <sup>512. N.</sup> Heretage. Much more if he, in effect, (*quantum in* <sup>1.</sup> *& Q. 515* *est, alienate the whole extra Familiam*) when it is a *Knapfield* *familial Fidei comiss.* The Caution decerned to Private persons runs, *quod fiduciarii velint die veniente,* *de Fid.* *aut conditione existente, aut si in judicio succumbant fide-* <sup>Fam. Cas.</sup> *comissa prestare integra \**: And a Father must secure <sup>386. 54.</sup> *his Q.*

\* T. & F. his Son *hypotheca rerum suarum* \*. Consequently less could be allowed to a Prince, (considering the matters of Fa& in the Memorial) then would, to the meanest of Subjects; since his interest ( both evidently lesed, and at most controverted) was greater and more inviolable than theirs can pretend to be.

6. The Justness of a War for punishing Offences deserves a more strict enquiry: since the very making war on X. J. is (in part) a punishment. Nature hath not determined, who shall exact punishment for M. lefices; only that, it were most convenient it should be a Superior: but he who does evil, *evipso detrudi* and makes himself Inferiour to one otherways his Equal \*. Hence sayeth Democritus, " *Naturam evenit melior ut sequori imperet*. This Chastisement is more specially recommended to near Relations because of their presumed piety in Correction \*.

\* Thom. 2. 2. Q. 64. Art. 3. 161. Cajetan. \* Tit. C. de emend. propinq. \* Grotius 2. 20. 40. " holds, *That a good Man is designed by Nature, a Permanent Magistrate, for by the very Law of Nature, he bath a Principality who does justly*. Whence the Learned Hugo \*, *Sciendum quoque, est Reges, qui par regibus jus obtinent, jus habere panas possendi, non tantum ob injurias inse commissas, sed et ob eas quae ipsos peculiariter non tangunt; sed in quibusvis personis ius naturae aut Gentium immaniter violantibus*. But the violating our Propertie in our Goods, Liberties, and Laws is a violation of the Law of Nature and Nations;

For, *Natura non patitur ut aliorum spoliis, nostras facultates, copias, opes augeamus*, sayes Cicero; And the same Grotius \*, *Vbi enim dominium, aut jus aliud, alicui legitimimo modo parum est, id ne ei auferatur, ius est naturalis*. And so this Delict (in the name of Humane Society thereby violated) *orbis viribus expiari debuit*, as Justin expresseth †. Yea, its not only more Noble, but Honest and convenient for a Prince to revenge an others, then his own injuries; because the moderation of his proper grief is more difficult: So the Hebrew Interpreters observe, that the

\* Grotius 2. 14. 8. *T. Justin. Lib. 8.*

the Kinsman was permitted to exact Talion for his Friends blood even by private Authority ; which was no wayes allowed to the lesed himself ( when perhaps, wounded ) and that for the same reason. From all which it appears that , the power of punishing is not an effect , proper to civil Jurisdiction ; but comes from the Law of Nature: otherways no enemy would have right of punishing an enemy ; which Right, notwithstanding, the use of all Nations does confirm. Whence it necessarily follows, that this war ( as Punitive of K. J. ) was most Just : Since the Princes power over him flows not “ *Exulla Jurisdictione Civilis,*  
 “ *sed ex illo Jure Naturali quod & ante institutas Civitates*  
 “ *sunt; & nunc etiam vigeat, quibus in locis homines Ju-*  
 “ *ri Civili non sunt Subjecti \** : And, *Ut quis Ulcio-*  
 “ *nem sumat ab eo qui peccavit, satis est ut ipse, et qui pec-*  
 “ *cavit subditus non sit.* + Grot. 1. 3. 21. 5.

7. This war which had so just grounds was Denounced ( by the Prince's Declarations ) much as that of Camillus against the Gauls ; *Omnia quae Defendi, re-*  
*petique, & Ulcisci fas sit :* Or as in the *Feciale For-*  
*mule, quas nec dederint, nec solverunt, nec fecerunt,*  
*quas res dari, fieri, solvi oportuit : ego vos testor popu-*  
*lum illum Injustum, nec jus persolvere.* His Declarations were altogether a sufficient Denunciation : For, the Reason of making Declarations of War, and its cause publick, is, that all Mankind may Cognition, and be perswaded of, the Justice of its cause : and that it may be certainly constant, it is undertaken by Authority of a Supreme Power, ( *non pri-*  
*vato ausu* ) as *Grotius* and *Gentilis* testify \*. The first being necessary to let the World ( yea Enemy himself, and his Party ) know the Authors Integrity ; And the second ; to inferr the peculiar effects which have not place in a war by, or against Subjects or Pirats. Declaration is pure, or Conditional. Pure Denunciation is, when a Delict is simply to be punished ; without admission of Repentance, since *Punitendo non*,  
*mocens*

\* Grot.  
 3: 1: 11:  
 Alber:  
 Gentil.  
 Lib: 13  
 C: 2:

*nocens esse, definis:* But such was not the Prince's who before, and after Denunciation, did incessantly request K. J. to repent *restituend& ablatum*, ( property or safety ) as a free Parliament would Advise; and he wold proceed no further †. Conditional Denunciation is exemplified in *Livius* \*, “ *Eam se injuriam, nisi ab ipsis qui fecerint, dematur, ipsos omni vi, depul.* ” *surum esse:* And of this nature was the Prince's, viz. On Condition of granting his Demands in Parliament; War and its effects were wholly to cease, and all that was done in the Interim ( as necessary for, inducing K. J. to assent, the Prince's own Defence ( as it is only a defensive war, tho to prevent and divert a Prince, enter his Enemies Country, on condition of security of not being offended ) and for protecting the Subjects till Grievances were redressed ) to be restored in *Integrum*. Repetition preceeding Indiction it self ( for it differs therefrom \* ) and the Solemnities of Indiction being of civil Institution ( not the Law of Nations ) “ *Indictio nullum post se tempus, jure Gentium, requiritis* \*”. Hence the third Punic War, *Simil indicitum simul illata est*: And so did Cyrus to the Armenian: and Servius affirms ( speaking of Denunciation ( *Pater Patriatus jaciebat bastam, que res erat pugnæ principium sum certare odiis sum res rapuisse licebit* ). Consequently there needed no delays after once Declaring at the borders of the Enemies Territory: Since that also satisfies the foresaid reason of Declarations.

From which Deduction it is evident that the Prince did not only lawfully declare this war, but also did not use therein, the rigour of the Law of Nations. For besides the pressing instances made ( before † any design of war ) to remove the causes thereof: there were no Acts of Hostility till his just demands ( as to the Principal, at least ) were a second time rejected; and thereon Declaration made also \*. “ *Irritatio animo cum ea prima fuit, postea iussum bellum decrevis civili-* ” *salum,*

\* Vid. t.  
Decla:  
and the  
Publick  
Papers.  
+ Liv.  
Lib. 8.

\* Vid.  
Marcel.  
Donat.  
in Liv.  
Lib. 8.  
P. 18.  
+ Grot.  
3. I. 13.

† See the  
Transacti  
ons about  
the time  
of Phagel  
& Siew-  
arts Let-  
ters.  
\* Vid. 3.  
Decla.

"*saturn ulro indicendo factum*, as *Livius* in an other case. After which second denial and the Prince coming to England, a third time competent for convenient granting was conceded; but *K. J.* by turning his back, at once confirmed the former, and shew'd the third refusal. So much had the Prince the Law of God in his Eyes \* , "When thou comest nigh to a City <sup>\* Deut.</sup>  
 "to fight against it, then proclaim peace unto it. And if <sup>20. io. ii.</sup>  
 "it will make no peace with thee, but will make war a-  
 "gainst thee, then thou shalt besiege it. Salustius sayeth,  
 "Sapientes pacis causa bellum gerunt, & laborem spe  
 "otii sustentant: Cic. 10 \* , Bellum ita suscipiatur, ut <sup>\* Nicom:</sup>  
 "nihil aliud nisi pax quæsi: a videatur; and elsewhere † ,  
 "Sic suscipienda bella sunt ob tam causam ut sine Inuria <sup>C. 7,</sup>  
 "in pace vivasur. All wh. ch dictats of Reason Con-  
 centred in His Highness's Conduct.

8. Finally, The Prince followed the greatest Examples ( Reason and use making a Law of Nations ) many of which are not near so justifiable as his Highness's. So *Constantine* took Arms, against *Maxentius* and *Licinius* for oppressing the Christians then secured by Laws: And abrogated all the unjust Edicts and Rescripts of *Licinius* \* : As other Christian Emperors, against the *Persians*, for Injuries to Christian Subjects. *Theodosius* and *Arcadius* having killed *Maximus* made this Law, *Quæ Tyrannus contra jus rescriptum non valere præcipimus* † . David sought and got protection of the *Philistines*. *Moses* freed the *Israelites* of the Egyptian bondage. Which being by God's own Will, must be lawful in itself; since he willett nothing unlawful in its own nature \*. The *Maccabees* are praised by *Ambrose* † , that even on the Sabbath, they revenged the Injuries done to their innocent Brethren. "The Governor of Sodom Rebelled against *Abedorla* omer ( whom they had long served ) yet *Abraham* did assist and protect his Kinsman *Lot* ( who was also an inhabitant ) and them against their oppressing Sovereign: Where Observe; *Melchisedeck* says,

\* *Liz. C.*  
*Theod. d.*  
*int. iis*  
*quæ sub*  
*Tyr. ran.*

† *Liz. C.*  
*Theod. d.*  
*infirma*  
*dis quæ*  
*sub Tyr.*  
*L. valer*  
*cod.*

\* *Vid:*  
*Syn. Cris.*  
*ibid. con-*  
*cerning*  
*the jew-*  
*els.*

† *Ambra*  
*de off.*  
*Liz. 1: C.*

"Blessed 40.

So. cxxi  
14. 20.

\* Blessed be the most high GOD which hath delivered (ibid.)  
 \* enemies into thine hands. So Hercules was Deified for  
 freeing the World of Tyrannous Monsters: in which  
 the just and vertuous Romans did goe beyond all  
 others. *Dio, Timoleon, Aratus, Harmadius, Aristo-*  
*giton, Aratus*, all imitators of *Hercules*, are exalted  
 (by the best Writers) for being *Tirannorum intercello-*  
*res & Magistri*. Ludovick XII. of France took the Pa-  
 trociny of the Duke of *Ferrara* and other Subjects,  
 (against *Julius II.*) whom also his Nephew *Henry III.*  
 with Force and Treasure, protected (against *Julius*  
*III.*) Which *Henry* likewise, at the same time, de-  
 fended the German Liberty against *Charles*. *Gustavus*  
*Adolphus* is in our Fathers Memories: and *Luther* had  
*German Princes* to protect him against the fury of the  
 Emperor. If the Pope's decision will hold now a days  
 we find him call in *Pepinus* against the then establish-  
 ed *Lombards*: And to enumerate all instances of that  
 nature in after Ages, would fill a Volume. Lately  
 (in firmance of the former) his *Holiness*, by mediations  
 of *Philip II.* made the Duke of *Guise* Head of  
 the Catholick League and Protector of that Faith  
 against *Henry III.* and *IV.* of France: Only for Cold-  
 ness and Tolleration in the one, and simple being  
 Protestant (and thereby Popery endangered) in the o-  
 ther: But it is a Canon of Rome it self, *Quod quisque*  
*juris in alium flauerit, ipse eadem jure usi debet*. The  
 Glorious Queen *Elizabeth*'s Assistance of the Protestants  
 in France, Scotland, Germany, and the Spanish Nether-  
 lands; and King *James 6th*'s traceing her happy foot-  
 steps, (both most Pious, as Christians, and zealous  
 of the Royal Dignity; as Princes;) carrieth greater  
 then ordinary weight to satisfie, that this War was  
 just and Religious.

THESES

## T H E S I S . I I .

Hence by the Law of Nations , the Prince's Title to the Regal Right was Legal , as the Effect of K. James ( not the Kingdoms ) being Vanquished in a Solemn War : Tho be had gone no further.

## P R O B A T I O N .

Empire or a Regal Right is acquired ( in a just and Solemn War ) to the Victor , two wayes , viz. Only , and as much as the Conquered King had it himself ; or moreover , all the Right that was both in King and People . This last , ( called Absolute Conquest of a Kingdom ) when the quarrel is against both King and Subjects , pertains not to our case or enquiry : As the Prince truely declared that he had no intention of Conquering the Nation \* . Conquest of the King only and what is his ( the Kingdom , and what is the Subject's , remaining untouched ) falls out , when the war is made for , ( not against ) them ; against the King only : and so the Conqueror ( as an Heir ) succeeds *Tantum in universum jus quod Antecessor habuit* . For ; as the goods and Rights of each single person are acquired to him who does subjugate the owner ; so are also those of a King subacted . Victory is *Æquiparate to Deditio* ; For " *Deditio* ( say the Lawyers ) gives over willingly , what Victory would extor by Force : But in Deditio , *Omnia ei qui armis plus posset , dedita sunt* ; Whence all must be acquired to the Victor in Victory . Hence all Incorporeal Rights

\* Vid. Decla.

Rights of the Vanquished become the Victor's also  
So the Romans ( Alba conquered ) did vindicate, Quia  
*Albanorum jura fuerant* \*

\* Dion.

211.

Gros. 3.

2. 4. 1. 2.

& 3. 6.

26. & 3.

9. 9. 161.

Zieg.

† Horn.

de Civ.

C. 9. Se.

2. 3. 5.

The Conqueror may acquire this Right without any ( at least express ) consent of the People ; so *Hornius* † ( a great Royalist, and for the Divine right of Monarchy : ) As soon, says he, as GOD gives Victory, he confers on the Victor in violable Majesty. If this were not admitted, Consider verses about Kingdoms, and Wars and Desolations there. on should be Immortal ( which is repugnant to the common sense of Nations ) for many deny the Subjects acquirence, or prescription, to prejudge the Sovereign. A Conqueror of a Kingdom may alienate it as his Patrimony, but a Conqueror of a King only, cannot. Since he hath no more Right then the King he succeeds to ; as an heir hath no more then his predecessor : so *Cyrus* desired the *Acyrians* to be of good courage , their Lot should be better then it was formerly : their Houses, Lands, right over Wives and Children should remain untouched ; their King only changed \*. Even as a friend, redeeming a Captive, acquires *jus pignoris & retentoris* in him : and he must serve his Deliverer ( tho [ otherways been formerly ] without any real servitude ) till the Lytron be payed : that being but a small Retribution of the great benefit of Liberty : But the Equity is greater in a publick then private Redemption ; since both the slavery and delivery is of many †. Hence *Grotius* \*. Potest autem Car. calo imperium acquiri vel tantum ut est in rege, & tunc in Tit. F: ejus dominatus jus succeditur, non ultra: vel etiam ut Cap. & est in populo. And \*, Justo bello ut alia acquiri possunt, ita & jus imperantis in populum; aut jus quod in imperio C. de post. lim.

\* C. 34.

Edi&t.

Car. calo

Tit. F:

ejus dunaxat jus succeditur,

non ultra: vel etiam ut

est in populo.

And \*, Justo bello ut alia

acquiri possunt,

ita & jus imperantis in

populum; aut jus quod in

imperio

babet ipse populus:

So speaking † of a King who hath

only a part of the Supreme Power, and the Senate

the other part thereof, " Potest rex suam imperii par-

\* Grotius

3. 15. 1.

† Grotius

3. 4. 13.

Tertullian affirms b.

Hence

2. Hence appears how the Regal Right was acquired to the Prince by Conquest of the King; not the Kingdom. For there were only two ways to obtain (in right of so just a war) the things demanded, and oft denied, *viz.* by force on K. James's person or Estate. Wherefore the Prince (resolving unchangeably to keep his sacred person inviolable) was necessitate to use Execution on his Estate. Whence according to the Law of Nations, he invaded his possessions, defeat tho mostly without blows his Forces; took his Forts, Cities, and Palaces; Finally got himself and whole Interest in his power. But leaving K. J. in Liberty to go about the granting our requests, K. J. left all to the Princes disposal. Then the Princes *jus ad rem becoming jus in re;* officers Civil, and most Military, ceased to act in K. J. Name, and as Actors or Negotiorum gestores at least possessed in Effect all in the Conqueror's\*. He emitted Writs in his own \* *Transit* name; and ordered the States to preveen confusion *possessio,* in the Interim; and was obeyed in all, before any delegation of the Governments: before which also; all even greatest Royalists made their Addresses and Homage to him; which was an material acknowledgment of, and could not be lawful (to a publick Enemy) without the Translation of the Regal Empire from K. J. by such an entire tho bloodless Victory over him. That Victory is most Absolute which is won without (even the Contest of) strokes; and none is more Absolute, then all possess none gainstanding. So K. James leaving all to the Prince for the present, (tho with a mind to be restored in the future) " *Tan-*  
*sper, volunt non possidere* (as Lawyers speak Arg.  
 " L. 17. S. 1. ff. acq. Poss. Si quis ex mente possessionem tra-  
 " dit, ut postea ei rei restituatur, definit possidere) and in his place the Prince possessed and so acquired.

3. That Empire, which was in the person subdued, is, the natural fruit of Victory; and immediatly after victory competent to the Victor: i. e. the wages of

*Si colonus  
altri tra-  
diderit.*

L. 3, Sec:  
9.

Cap. L.  
33. cod.

L. 32. S.  
1. L. 25.

S. 2. de  
acq. poss.

of War as it is called *Ezech. 29. 18.* Seqq: Because they wroughts for me, saith the Lord; is clear from the Actings, approved by the Writers, of all Nations and Ages. So GOD speaking of a City expugnate, after repudiating conditions of Peace, ) decerns;

\* *Dantz.*  
20. 14. " All the spoyl thereof shalt thou take to thy self ". And it is said of the two Tribs and the half; And the Haga-  
tits were delivered into their hands because the war was of GOD (i. e. as it is declared in the foregoing verses) be-  
cause they put their trust in him; and they dwelt in their

\* *Chron.*  
5. 18. *Se.* fields \*. Jacob expresseth this right; Which I took out  
of the hand of the Amorite with my Sword and with my

\* *Genes.*  
43. 22. bow †. Neither was the taking the Vanquished's  
Spoyl against the Piety of *Asa* (the great destroyer of  
the Images, and restorer of the Laws of Juda) for it  
is approved in the Text. When the numerous Army of  
*Zera* came against him he prayed, O Lord thou art our God  
let not man prevail against Thee; So he fled, and could  
not recover, for the fear of the Lord came upon them \*.  
&c. And *Abraham* when Protector of the Sodomites,  
acquired property of the defeated Kings spoyle; else  
he could not have given, the tenth, meat, or portion,  
thereof to others. The *Hebrews* used to put im-  
mediately, the Conqueror's Crown on the Conquer-  
or: For Example on *David* \*: And all these were

\* *2 Sam.*  
32. 30. not Wars by any particular direction from God, Sed  
*ex communi jure Gentium*, as Criticks observe on the re-  
spective places. Profane suffrage goes along with  
Sacred: so *Alexander* after the fight at *Gaugamels*,  
was saluted King of *Asia*: " Romani que Cyphasis fu-  
rant sua dixerat lege belli \*: cum Odoacrum devictis et

\* *Grot.*  
in Not.  
ub. Sup.  
† *Agath.*  
2. de  
*Theodor.*  
\* *Liv.*  
43. " ejus que fuerant belli jure tenuit †: Quo devicto, can-  
" omnia que illius fuissent, jure belli Scienti facta sint \*:  
" and Bocchus in Salust, ob regnum tuandum arma si-  
" cepisse, nam Numidia partem unde jugurtham ex parte  
" rat, jure belli suam fallam. The Conquest of *Willia*  
the First must have been only of *Harald* and his Par-  
fans (against whom he pretended title,) and not of  
England

of England; else his Successors had had Absolute Power, or had not had a good right. From all which we shall conclude with the great *Grotius*\*: *At reges qui belli solenni vitti, regnoque exuisi sunt, cum alii regis iuribus & jus legandi perdidereant: So Paulus Aemilius* <sup>+ Grot.</sup> <sub>2: 18: 2.</sub>  
did retain the Ambassadors of Persia who was vanquished by him.

4. This Acquisition is not only Legal in the External Law of Nations, but also most equitable in Internal Justice, which, besides what is already hinted at both in Right and Fact, is farther demonstrated by this Deduction. There is a just cause of Acquisition by the Law of nature, when I acquire, that which was not mine, in place of what is mine, and what is due to me, and for repairing and punishing an injurious fact; from him who detained what is mine, and from whom I cannot obtain what is due to me, and who hath lesed me. For otherwayes, I could never be satisfied; the bare retention being fruitless and vain, if I have no right to use it. So when my debtor deferreth to pay, in lieu of my debt, I get, by Judicial Assignation, his Heretages and exactio[n] of punishment is payment of that debt which is due to the Delict. But war among Princes, is like Actions betwixt private men before a Supreme Judge; fore-going instances; and at last, Declaration, like to private Citations; finally entire and absolute Victory, to a Sentence. So that as a Sentence (decerning to me my Adversaries estate, for what is mine, and due to me, and punishment of a bygone Crime, and refractoriness in not giving Caution for the future) *in firmans consent* and is most just: so must also the like Acquisition by Victory. Let us consider the true matter of Fact in the Memorial, and Declarations, and there after; the unpaid expences due to, and untracted injuries (by Proclamations and Letters) against the Prince himself, the short time K. James could, yea, he would not on just conditions, enjoy

the Crown; and its coming to his Children, *Pars of his own body*; finally the difference betwixt this publick affair and private concerns; and we shall find the Reparation less then Equivalent. For he, who cited for one debt of *causio de damno inferto*, to one person; or for one crime against a single man; is Contumacious; loseth the whole thing from which damage is (on Oath) feared, and whole goods (yea Estate, in Notour Treason) yet he is judged, in Inter-  
nal Justice it self, from his implied consent, to suffer only the Equivalent. How much more therefore, in our case, where there are many debts, to many persons, damage justly feared to a Multitude, re-  
peated injuries done to three Kingdoms, and that ones too of the highest nature; and a final Contumacious-  
ness to grant redress or security, for the present or future, in any of all these most weighty points.

Tho we poise this Equivalency Absolutely in the ballance of Civil or Criminal Judgments, we shall perceive its Adequateness to the debts and Delicts. For he that is Contumax, can not appeal; nor he who hath cōfessed, nor he who hath once assented to stand to the

\* Struv:  
Exer. 50.  
† Tit.  
ff. de app.  
recip. vel  
non.

† Vid. his  
Proposals  
Dec. 8.  
1688.

This is  
known by  
his pub-  
lick writs  
& deeds.

† L. 51.  
ff. R. 1.

Judgment \* But K. J. did assent to a *Par:†*; confessed partly expresslv, partly materially, most of the violations object-ed \*; and at first and last was Contumax,  
“*Non defendere videtur, non tantum qui latitas, sed et*  
“*is qui praeſons negat se defendere; aut non vult suscipere*  
“*Actionem †: and Consequently c̄annot appeal, or*  
alledge any inequality Even as the Merit of a Delict, in the opinion of all Lawyers; is heightned from the cause which moved the Committer; the cause which should have restrained him; and his Idoneity to consider both. Injustice is the greater, the greater damage is inferred thereby; when it is consummate, or the nearer it comes to the last Act; that which pre-judges many; and that from which its probable great loss might follow on. If there be joyned to it another vice of, impiety towards Children, inhu-

manit

manity to Relations, Ingratitude to Benefactors. If it be frequent and habitual, in a Person of perfect Age, all these Aggravations augment its Atrociousness. Much Bile, great Power, consummate experience, and above all if it be infused by Education, and opinion of Religion, make it the more formidable, and less evitable; and so must be the more Precautioned against. I leave those who know the matters of Fact (1) the Transactions of Court; to make the Application. If there remain any scruple as yet, as to the disproportion betwix: the Debts and Delicts of K. J. and their recompence, and satisfaction obtained for them; the famous Royalist Zieglerus \* will resolve it: For says he, "Magis igitur erit ut continuetur bellum etiam post acceptam satisfactionem, donec hostis pacis expectat conditiones. Succedit enim in locum pristinum causarum alia nova, quae est causa periculi vietandi. Siquidem ille adversus quem bellum motum fecit, brevi post tempore, insurget, bellumque nullum justum casu sibi illa sum causabitur, maximisque copiis, iniurias vindicaturus, prestito est.

\* Grot.

P. M.

538.

It is true villainous Counsellors set this, otherways, vicious Monarch on to Enormous doings, whileas, himself, he was just and Clement: But this does not exoner him from Punishment in the Law of all Nations \*; since he sinned in not restraining and punishing them. For he who commends a vicious fact, helps in, and lends his name to it; approves and causes it; does not Prohibit it when he can, and could forbid it; who Refers the committers; does which dissuade them when obliged thereto; or Succours or commands the sufferers tho holden to do the same; assents to, and Participates in the guilt. *Salvianus of Kings*, *Potestas magna & Potentissima, qua prohibet scelus maximum potest, quasi probat debere fieri si quis patitur perpetrari: And Dion in Galba; Priva-* *sufficit, non delinquere. In Imperio agentibus in-* *subit, & hoc curare, ne delinquat alius: As Augustin,*

\* Rom. 1.  
Fin. Se.  
interdum,  
Init. turt.  
L. Impe-  
rator. It.  
qui fine  
m an: L.  
2. fl. de  
Nox.  
Att.

\* Leg.  
Long.  
Lib 1.  
Tit. 9.  
Sect. 25.  
† Arnol.  
Adv.  
Gent. C.  
4.

*Quia deficit obviare, eum posset, consensit;* And, *Quia facinorosum, aduersus, hostiam, profaciens habet;* The reason of which is rendred by *Arnoldius*, *Quisque patitur peccare peccantem, si vires subministras audacter;* And *Salvianus*, *In cuius manu est ut prohibeat, iubet non prohibere admittit.* And so since these Contentions suffice to make up a Merit answerable to the punishment inflicted on K. J. we shall make no more unfavourable gloss on his share in the Tragedy of our Miseries: And consequently the least, we can conclude from the Premises, is, that since this war was inferred for taking away, and continuing to withhold our Properties; the *Broad*

*Quae fecit, si quisque ferat, jus fieri & Regnum,* holds of K. J. the Question being betwixt him, and the P. (1) two Sovereigns. Punishment is naturally an evil of Passion which is inflicted for an evil of Action; and so what hath befallen K. J. is most just. *Quod such a punishment:* For *Hierax* defines Justice *Pena exactio nem ab iis qui priores lestere;* And *Platus* affirms, *Nec Deserunt nec dominum quisquam hoc distinxisse agenti non luendam penam.*

5. When the Supreme Rulers of any People are overthrown, all that pertained to them becomes the Overthrower's, wherever it lye and exist; (1) All their Territories. To evidence this truth, observe that we speak only of the Conquest of a King's right which, being Incorporeal, & wholly in his Person, acquired (his person subdued) in Universum to the Conqueror: not of the Conquest of a Kingdom, which being Corporeal, and there being many persons Proprietors thereof who must be subdued; [the design being to acquire the rights of all, both of King & Subjects] requires to be possessed naturally by, and so confirmed to, the Conqueror. In a word the Incorporeal right accressing to the Conqueror by conquest of King, is not the object of corporeal apprehension and so any Act of use on the Conqueror's part, an

sufferance on the Conquered's, is sufficient to the Acquisition thereof: just as *usus & patientia* suffice to the Transmission of other Incorporeal Rights, for example, a Liferent. But all the lands of a Kingdom being the proper Object of Corporeal Apprehension; there are, as many Corporal acts of Possession required to the Acquisition of each individual owner's portion, as were in the former case, to acquire the King's. Victory therefore, over a King only, falls out two ways, *viz.* either of, and over his Army; himself being free: or of, and over a King being present and his Army; whereby he comes in the Power of the Victor. In the first case the Victor can acquire no Dominion or Empire as to the Territories; and that for defect of the matter of Acquisition in the persons of the *Vici*; the Souldiers, and of the form in respect of the Territories: For the Souldiers having no such Right, it cannot be had from them; and the Territories, (their Master never having been in Power, but they remaining possesst in his name) are not acquired till actual and firm possession be taken there-  
of by making or taking Forts, and the like \*. The  
same holds, as Lawyers assert, when a King is Van-  
quished and taken without his own Bounds, as Fran-  
çois I. was in Italy. Because he had not, (at least) the  
full exercise of Regal Power *extra Territorium*, and  
being taken, only with his, then present, Qualities,  
could not lose it: and because there was Positive Re-  
sistance of the Subjects, (the war being against them  
also) who designed not only to defend their King's  
right, (and so continued to possess in his Name, with-  
out the least actual disturbance by the Victor) but al-  
so their own Patrimonies.

\* Grot.  
3. 4. 4.

But in our second case; when a King in person,  
and within his own Dominions is come in the Power,  
and Subjected to the Arbitriment of the Victor: and  
leaves all his Territories to the Possession of the Con-  
queror; without any dissent, yea, with Homologa-  
tion

tion of the Subjects: All wheresoever sited, acci-  
sed to the same Successor, as there was no Division  
in the subjugated person of the Author. For a King-  
dom is one united *Totum*, whose parts are Coher-  
ent as those of a house: so this *Totum* being individual  
and unpossessed by another, (as, after desertion  
Scotland was not possessed by K. J J the least Act in the  
Conquerors name, (as the proclaiming his Declara-  
tion, &c.) In any part thereof, acquires, *per Univer-  
sitem*, Civil Possession, and consequently Imper-  
ial right, of the Whole: Just as the acquirer needs  
ther come nor send to all the rooms of a vacant house.

† L. *divus*  
ff. *jur.*  
*Fisc.* L.  
*bona*, *Se:*  
*apparet,*  
*de capt.*  
& *pos-  
sum.*

What is an Enemie's, is in Law † *res nullius*, & if  
*pro nullo habetur*: and so, even as a deserted Regio-  
n is acquired by setting up the least Symbol of posses-  
sion on the border thereof, which we have seen in the  
Indies, / the whole Complex of a King's Dominion  
is acquired to him who subdued his person, their be-  
ceding so evident Symbols of possession as were to  
the P. thorow all Britain. *Per Occupationem*, says the

Lawyers \*, quæ sit per universitatem acquiritur dominio  
\* Becler. " Imperium in omnia quæ isto tractu comprehendantur  
L. 1. C. 2. pussen: " sola animi destinassione, extra actum corporalem specie-  
L. 4. C. 6. " lem: non est opus ut quis singulas glebas circumambule  
" sed dum quis fundum, (idem de insula,) intrat cum  
" cum occupandi, statim Totum occupasse intelligitur  
So the adjacent Sea is possesse and in Dominion of a  
King of Britain, without any special Apprehension  
and the Venetian Marries the whole Adriatick by a  
simple Act of diving a ring therein; whence nothing  
hindred the P. to acquire the Regal Right by Equipo-  
tent acts and means. This Acquisition is like that  
an Heir, (yea a Conqueror is in effect, at least, a  
Heir; according to that famous Title of Law, "

† L. 1. 2. Se. ult. ff. R. 1. " qui in universum jus succedunt, Hare dis loco habentur  
who by Gestio of one Act acquires all his Prede-  
cessor's Estate wheresoever it be. And as, when one  
made Captive, the taker acquires all things Copore-

and Incorporeal which were his, / whether about his person when taken, or lying in the Victors Dominions, or in any Neutral's Territory ) as accessory to his person \*. The Essence of Dominion consists, in being subjected to our Power and Disposal: Hence the word Possession comes from *possidere*, a Possibility of *possidere sedis* in a place when one pleases: ( As in the Civil Law possession is acquired, *oculis, quasi longis manibus*, when the thing is patent, and no impediment to enter it ) and so; since all K. J. had was in the P's. power (*Ireland follows England*, as an accessory its Principal, and the Roman Provinces; *Rome* \*.) and Legal disposal, for there was none to hinder it; he had also Possession, ( External acts preceding and Concomitant ) and Dominion thereof. That is to say, K. J.'s Territories became the P's. Territories: whether that word comes a *terrendis hostibus* whence, by Forts and Forces; or a *terrendi jure* there, by the Magistrates not acting, what was done, (in K. J. Name) or a *terra* it self, which was then under the P. (not K. J.) Power and Government. So *Hannibal* to his Souldiers, "*Quicquid Romani tot triumphis parvum congregumque possident, id omne nostrum cum ipsis Dominis suorum est*" †. Menander concerning the Territories of the City *Daras*, *Cum Urbs ipsa belli jure a se subjugata esset, Rationis esse, ut et quae sub Urbe fuerant ad se pertinerent.* The *Vandals* defeat, *Bellisarius* did vindicate *Lilybeum* in *Sicily*, as pertaining to them \*: *Henry F. Barbarosas* sou. *Sicily* taken, did assert to himself *Epidamus*, *Theffalonlea*, and others possessed by the *Sicilians* †. *Bajanus* to the Emperor, *Ad se eam Urbem pertinere, ut quae Gapidarum fuisse* <sup>\* Prosp.</sup> *qui Gapidae ab ipso essent vitti.* And so these Authors, speaking of Democracies, speak, only, of the sole Supreme Governors being subjugated, which is the case in hand, and so inferrs our Conclusion.

If any after all this, pretend, that ( thô the Ps: *jus ad rem be undenyable, yet ) those Acts of Civil pos-*  
*session*

<sup>\* Grotius</sup>

3. 9. 6.

\* vid.

<sup>Grotius</sup>

3. 6. 26.

<sup>+ Liv. 22.</sup>

<sup>\* Prosp.</sup>

<sup>z. Vand.</sup>

<sup>+ Nicetas</sup>

Lib. 1.

session by him, (which existed before delation of the Interregnal Governments,) were not compleat; and sufficient to his acquiring a plenary *jus in re*. Giving but not granting this: he bath now a Consummate and compleat real Right (possession, altogether full, having now acceded to his Title,) and that, (as to K. J. and his Partizans) by Conquest confirmed by consent (which was manifested by Election) of the Subjects. For the state of war (not made up by a peace) remains; and so that Title of Conquest continues still, (as to K. J.) and the P's. present possession is undoubted (possession, being, *Detentio rei cum affectione & animo sibi habendi*) and so it may be assign'd to that Title when the Question is with K. J. since

<sup>† L. 3. § 4. ff. scq.</sup> a man may posses a thing by two, or more Titles <sup>§.</sup>, and thence K. J. is dispossessed entirely; for two cannot posses in *solidum* the same thing, in the same kind, & at the same time; no more then two can sit or stand in the same individual place at once: and whatever the P. formerly resigned in favours of, and Transacted with, the Subjects, cannot advantage K. J. who holds, that their actings are null; seeing, *Res inter alios acta, aliis non prodest; ubi personae conditio locum facit beneficio, ibi, deficiente ead, beneficium quoque deficit* \*; *qui legem contemnit, non debet frui ejus beneficio, nibili nullae sunt proprietates, & quod nullum est, nullum de jure, soritur effectum*. But the truth is that, the P's.

<sup>\* L. in omnibus causis. ff. R. J.</sup> Right was, (before now) entirely Consummated by K. J. his desertion. A Contract, Emption v. g. is said to be perfected, when (its Essential Requisitus being present) *jus ad rem emptam* is perfectly stated in the person of the Buyer: And it is said to be Consummated when, in virtue of that Right, he obtains *jus in re*, or the thing bought delivered to him. Even so was the P's. Right of Conquest perfected and consummated according to the Law of Nations, which is a commune Contract of all Princes and consequently of K. J. also. For a Just and Solemn war against a King

King, (not satisfying its causes) gives *jus ad rem*, or (as Livius calls it) Title to his Regal right: Acts of Capture and possession; and finally, full Victory; and that King's giving over (by desertion) all to the Victor: is the same with Tradition: and Consequently confers *jus in re* on the Conqueror.

It were expedient here to elucidate how K. J. his leaving us, was a Dereliction: but since his desertion not only left a real right to the Prince, but also free Liberty to the Subjects to acknowledge the same; that shall be expedited in the third Section, where both their rights are considered jointly. Here only, a great Block shall be removed out of the way, viz. That K. J.'s going off was occasioned by Fear; and so say they, it should not prejudge him. This is wholly false in a Solemn War; since the Hebrew Kings were accused by the Prophets, and punished by God, for coming against what was done out of such a fear and compulsion\*. For,

\* Exsch.  
C. 17.

Fear is a passion and Trepidation of the mind because of some present, or certain future evil. What is done through this fear, &c to evite that evil, is Spontaneous and voluntar, and so once subsists: for of two evils, to do or suffer, he voluntarily (*ex post facto*, or *post illo casu, licet non ab initio*,) choiceth to do the least evil, and in so farr good. *Coacta voluntas* etiam voluntas est sayeth the Law: And \* *Qui mens aliquid fecit, obligatur, quia consensus hic ad ius, non conditionalis, sed absolutus.* In this, fear differs from Force and Absolute Violence. For what is done by proper force is acted only by the Forcer himself without any concurrence of the Sufferer: As when a man is dragged out of his house; which cannot be said of K. J. who had full freedom, and was intreated, to stay in his Kingdoms. Moreover, what is lost through fear, stands firm, and is not subject, no not to be restored *in integrum*, on two grounds principally. First if it be a vain fear: Secondly, tho' the fear be not vain,

\* Grot,  
2.11.7.2.

vain, if the cause be just which occasioned it. As to the first: *vetus timor* is, when the fear is not such, that it would put a Moral necessity, on the most constant man, to do what is done therethrough \*. So suspicion is no just cause of fear †; nor when one conceives fear to himself, from an other's great power \*, unless, at most, threatened thereby. So that fear, which would be just in a Peasant, is in Law, esteemed vain in a Souldier: and that which would afford restitution to a Pugillanimous man, will not be named to, as reflecting on a Nobleman. Hence, what shall we pronounce of K. J.'s. fear; he being so Magnanimous a Prince, and secured by most Solemn promises of a Faith never Temerated: Nature having garded him by the untainted honour of a Prince, and affectioned Intercessions of a Daughter: The Army being for, not against him, if he would have consented to be joyntly protected by his own Laws. The rejecting all which gave us just fears indeed, that it was a designed total Conquest (not fear) which caused his Desertion.

As to the second: Tho this fear was not *vetus timor*, yet the cause being just which occasioned it, viz. A Solemn War, what is lost thereby, is irrecoverable. For K. J. gave cause to the war on him; and so his own Scholasticks decide, " *Ali qui causam dedit cur vim pati aut metu cogi debeat, habet quod sibi impuset: nam involuntarium ex voluntario ortum habens, pro voluntario habetur*"\*. In a word, all Laywers † are express, that what is done out of fear (which a King hath driven on himself) of the effects in a Solemn war, can never be come against. Sicut

\* *Lessius*  
Lib. 11.  
c. 17.  
Dub: 6:  
Grot. 2.  
17. 18:  
† Struv.  
Ex. 8.  
Th. 12:  
*Mich de Lun. L.2*  
c. 10.  
\* *Bodin*.  
de rep:  
L: 4: c:  
6.  
Grot. 2.  
17. 19. &  
Lib: 3:  
39: 11:

" *Genium consensu introductum est ut bella omnia, summa potestatis autoritate utrinque, gesta & indicta, pro justis habeantur quoad effectus externos; ita & hoc, ut talis bellum metus hactenus pro justo habeatur, ne quod ita obterium est repeti possit*"\*: So Grotius again; Bel-

" *et alia habet Peculiaria in jure Gentium extenso posita,*  
 " *ut quae hoc, ut quae in eo bello, aut ejus finiendi causa,*  
 " *promittuntur adeo sunt valida, ut ex ea sa meius in iuste*  
 " *illatis in irrum deduci non possint:* Which Law of  
 Nations was Absolutely necessary, because ( as Gro.  
 " tius adds, ) *Ni id placuisse bellis talibus ( ubi metus*  
 " *utrinque infertur) que valde sunt frequentia, nec modus*  
 " *uec finis posuisse imponi, quod tamen fieri, interest*  
 " *humani generis.* And to take away this Law were  
 in effect, to banish Faith from all publick Negotia-  
 tions, and Quiet from Mankind; since few Treaties  
 but are made in Arms by Force, and thorow fear to  
 lose Life, orgoods; Liberty or the State: which  
 are causes able to shake the most constant. From all  
 which it most evidently appears, that the greatest  
 fear could neither invalidate what K. J. did, or might  
 have done, during his abode: nor consequently, at  
 last, his Desertion: Even as he, who (made Captive  
 in a just war) promiseth a sume for his Liberty is  
 never exceeded from, but by his own party, forced  
 to; Payment \*. And as, whatever right one, Legally  
 Imprisoned, grants or renounces, is irreversible †.  
 And if he run away for that debt, he can make no  
 Advantage of being forced by Bailliffs; because the  
 cause of the Force was Originally from himself,  
 and he might and ought to have prevented it.

\* *Christin*  
 vol. 3.  
 dec. Beli:  
 124. N.  
 9. Seqq.  
 † L. 27.  
 Pt: f. Q.  
 M. C. 16.  
 D. D.

## THESIS

## THESS III.

But his *HIGHNESS* having Over-given  
and Resigned, any Title of Conquest, to the  
Subjects (after the Conquered King's De-  
serting them to the Conqueror, and thereby  
Consummating his right) the Regal Go-  
vernment was (pro tempore) Dissolved;  
and they were as free, from K: J: as if a Di-  
mocracy had been Surrogate in its place.

### P R O B A T I O N.

I. **T**HE Regal Right being thus stated in the P:  
he, with a greatness of mind, rare in the  
Worlds History of our days; did resign the same to  
the Subjects considered in the Capacity in which they  
are represented in Parliament. Whence the P. (who  
alone had the whole Power & Empire, which before  
Conquest was K. J.) being denuded, Monarchy (as to K  
J:) necessarily ceased and was dissolved: and our State  
became a mixt *Democracy*, after the manner (only  
with Super-addition of the remanent Power which  
formerly was in the King) of the Ancient Repre-  
sentative. So *Lycurgus* did spoile himself, and the next  
heirs of the *Heraclid* race, of Supreme Power; to con-  
ferr the same on his, even, Reluctant Citizens:  
changeing not only the State but Laws, of that thrice  
happy City. Even as those who wared before *Ninus*  
did not seek Empire but Glory \*. And as the P. glori-  
ous Ancestors, and he, have done in, and to the so  
great advantage, of the Provinces. *Antigonus* is cele-  
brated by *Polybius*, that when he had *Sparta* in his po-  
wer, he left to them their State and Liberty: and the  
old vertuous *Romans* did vindicate *Asia*, *Greece*, and  
most other Cities from their cruel Tyrants, and then  
left them to their Liberty: as *Agapetus* (Pope) did  
to the Children of *Valerius Jucundus*, because their  
King

\* *Justin.*  
Lib. i.

King Clotherius dispatched their Father before the Altar. Who is able or willing in this decrepitate Age, to parallel the piety of the Noble Romans, but our Princes For, as they permitted the Cappadocians to use what form of Government they pleased, so he transferred all his Right to us ; to the end we might confer it again on King James , or any other, as we found the same most necessary for our safety and happiness : As Abraham took back the spoil, but restored what was become his by the right of War, to the first Owners.

2. This entire Conversion, and thereon Vacancy of the Government, was declared by the States, (according to their own inherent, and the Princes co-incident power,) each Member giving his vote on the grounds which convinced his own conscience : And all Men, of what Opinion soever, may see how clear Reason there was for that Declaration , the P: having over-given all his Right most evidently. For, a Mandecrates his mind three wayes, principally ; viz. by Word, Write, and Deeds. But, First, the P: both by Word, Write, and Deeds, gave and enjoyned us absolute Liberty of Settleing and Disposing of the Government ; And accordingly, in the second place, accepted the Government (in the interim) only *cavaria nomine* in the Peoples name , without any Maje- \* Ac-  
fy. This charge, for, calling the States, keeping us in Order, and the protecting all \* , engaged him to wait here till the States final Determination ; which being the Election of himself King : He, 3 ly, accepted that, as having then no Right of his own (by conquest) inwhich Quality he had accepted the former. The first of these was an explicite renunciation of all his Right; and the two last ( tho the first sufficed, yet in confirmation thereof ) contained necessarily an implied one, which is equivalent to express. For, taciti & expressi eadem vis est, so he who redeems a Captive, with his own Money, tacitely renounces all Right in  
the

his Decla-  
rations, &  
Delations  
of the Go-  
vern-  
ments Ci-  
vil and  
Military

the Redeemed , by subsequent embracing her in  
 \* L: 13: Marriage\* ; and the Fiduciary restores the fidei com-  
 e: de post-  
 miss, ( not only *verbis*, but also ) *re, cum res à fidei com-*  
*missario possideri, permittit*\* : So, sayes another Law†,  
 † L: 37:  
 §: ad seif  
 Treb:  
 ¶\* L: re-  
 cufar: aq:  
 bar.  
 || L: qui-  
 dam dcre  
 jud:  
 \* L. la-  
 bco. de  
 patz.  
 † DD: ad  
 l: Bab a-  
 rius de  
 off: prati:  
 the Redeemed , by subsequent embracing her in  
 Marriage\* ; and the Fiduciary restores the fidei com-  
 miss, ( not only *verbis*, but also ) *re, cum res à fidei com-*  
*missario possideri, permittit*\* : So, sayes another Law†,  
*recusari hereditas non tantum verbis, sed etiam re, po-*  
*testi, aut quovis indicio voluntatis*: And he who / being  
*Proprietat of a thing ) wittingly contracteth with an*  
*other, who possesseth it, as Lord thereot, is judged*  
*to have remitted his property‡ : Even as returning*  
*the Bond, contains a Remission of the Debt due to*  
*the Returner \**: And a Superior conceding or  
*commanding a Subject to do that which he cannot*  
*dolawfully, unless loosed from the Law, is under-*  
*stood to have dispensed with the Law to that effect.*  
 3. Whence now appears , wherefore the P: did  
 not, then, take the name of King by conquest ; and  
 so short while retained the Right ; viz. because  
 moved thereto by Reason and Example. By  
 Reason , for , ( knowing that a Proprietate  
 may have Dominion tho he call not himself Lord ) he  
 intended to acquire no more then was Absolutely ne-  
 cessary to satisfie (*in omnem eventum*) the Consciences  
 of all Subjects ; i.e. the Power : the which also ,  
 resolving immediatly to resign ( since it was for us only,  
 not himself , he came hither ) he would not be called  
 a King of some few dayes. By example , for , how  
 many Hero's have Conquered, not only Kings , but  
 Kingdoms ; without ever assuming their Title ?  
 Wherefore, since we see the Advantage *Translati Imperii* ; and that the P. proceedings , were such , as in  
 their own nature , and in the meaning and use of all  
 Ages , imported *animum acquirendū Imperii* And  
 since his promises to us all ( to procure , *omni habili modo* , us Liberty of being once more happy ) and his  
 Charity to many ( whose Scruples , and Insurrections  
 thereon , he knew could not be otherwayes stope) because they would judge their using that Liberty  
 Criminal ) did oblige him to the same : we must con-  
 clude

clude that, after K. J. desertion of all other means, he intended this Acquisition as the only remaining mean, (since any contrary *Propositorum, in animo, retentum nibil operatur*) to make all happy, and that *intuitu*, and to the end, of this Translation: (Since this exempts all from the possibility of incurring any Delict.) *In dubio (it self) ea capienda est Interpretatio,*  
*ne quis presumatur deliquerisse* \* : *Semper in dubio, benigniora preferenda* † : *& quoties idem sermo, duas sententias exprimit, ea potissimum accipiatur, quae rei gerenda aptior est, ut valeat postius quam pereat societas, & quae est secundum ejus naturam* \* : But the P's: having Right (tho' not nomine yet re, and not as to the outward form, yet as to the substantial matter) and its union with the States own power, excludes all delict from the Acquiescence in their Determinations; and so is the most benigne interpretation, being according the Nature; (i. e.) the maintenance of Society, as the contrary gloss tends to its ruine; and consequently, tho' the matter were doubtful, as it is clear, all, who cannot be satisfied otherwayes, should follow this interpretation, else they are enemies to the GOD of Order and Peace, as being enemies to, and disturbers of, Humane Lawful Society.

Hence also is clear, that it was not free for any Mutineer to dissent from the subjection he (even) then owed by vertue of this Acquisition and Translation of the Regal Right; for he was oblieged to Obedience and Compliace on two accounts; First, as to the P: become his Sovereign; since the debt of Allegiance remained unextinguished, the creditor therein, and object thereof, being only changed. Secondly, as to Fellow-subjects, (i. e. the State) since the Obligation to them as parts of the same body (which was Anterior to (and so separable from, and is as binding as) that to the head; whose Society with the Members was only dissolved; but not that of the Members between themselves \*) Remaining without

\* L: 51:  
ff: pro fo-  
cio.  
† L: 56:  
de R: 3:  
+ L: 67:  
do R: 1:  
16. DD.

+ Quid  
non ex-  
prefe mu-  
tatum est  
cum ferae  
prohibe-  
bitur.

out any change, even in the Creditors and Object; obstricted him, to the publick good of the Major part, that being the Indispensible bond of all those who have once consented to a perpetual Society. For which cause also; the States Determinations did oblige such a Dissenter tho he was unwilling to accept the P's. gracious benefit of Liberty: since, ( all his Brethren Subjects being peculiarly interested therein) *cum alterius interest, publice aut privatis, invito deo beneficium\**: And since he was freed Antecedently by the P. and K. J's. own facts, from his debt of Allegiance to K. J. for Debitor liberatur, *cum quis, eo involvi, solvit ejus Creditori †*; *Et definit debitor esse qui naturae exceptionem justam, nec ab aequitate naturali abborret* item \*. Finally, tho this Acquisition and Translation was not particularly known to some, even good Patriots; yet ( that being Internal and so Latent tow, de R: 1. and the States having willed generally, all means necessary or conduced to their end;) the external effects are not impeded thereby: since, *Quod animos retentum est nihil operatur, & licet in causis dissenserim, tamen in hoc conveniens ut justificaret omni habili modo \**.

\* See the  
DD. who  
wrote at  
large; ad  
Tit. de  
Aq. re-  
rum dom:

4. That which summes up all reasonings, and removes all (even) difficulty from the Premisses, is K. J. Desertion. For K. J. resolved not to keep his Crowns in the quality, and on the conditions offered (else he had acquiesced in them) but intended to have a new Right without any of those Legal Cloggs; (else he had continued to exerce his old right in that quality; a thing then, so necessary and implored:) And so dispairing to retain his Kingdoms (as he would have them) left the Subjects in confusion, and the Prince to order them. This was a real and absolute present Desertion; and consequently gave all right desireable both to Prince and Subjects. It is the dictate of Nature that we collect the Will from Signs proper and fit to declare it by Moral (not Mathematical)

tical) certainty: For the Nature and Non-perturbation of humane Society require that those signs have some efficacy; since it is not possible to know the mind otherwayes. And so K. J's. going off is a sign morally demonstrative of a present *desertion* by the feet, inimmoveables; as Abjection by the hands, is of Dereliction in moveables. For since he willed, not to keep his possessions, (which he had Power to do by once saying, *Le Roy le veut*, to our demands,) he willed to leave them as / being so hemmed / things of no value: And this leaving them is Dereliction and Desertion; *relinquo* and *desero* signifying only to leave. Government is so necessary for the preservation of Subjects, that he who intends to have Subjects must at the same time intend to Govern them. No man can serve two Masters; and so In consistencie (the will of reigning, and the will of leaving us to the P's. Regiment, [for he knew what the Subjects would do after his removal,] being inconsistent) he hath abdicated. At least he hath really given over his Possession at present; but on condition (Resolutive) in effect, of recovery or being restored in the future; which suffices to the Conqueror: Since, *Si quis eam menie posse-  
sum tradit ut postea ei rei Restituatur, destinat possidere* <sup>\*L. 117.</sup> And the Conqueror is not obliged to admit that con- <sup>Sect. 1.  
ff. Aqz  
Poss.</sup> dition, he having once *jus quaesumus*, and the state of War (to whose causes much is superadded by K. J.) still continuing. The truth is: any purpose of an After-game (being only Vagrant, an uncertain futurity, *contrarium facta* of present Retention, and mostly *animo retentum*) *nihil potest operari*, as the Lawyers speak, to intervert what he hath explicitely and actually done, and our present just right of Possession thereon: Since, *Nemo potest mutare consilium sum in alterius injuriam* <sup>+ L. 65.</sup>; *& punitendo non, nocens de R. l.* effe deficit.

" *He who suffers his child or Slave to be exposed to another's compassion which he bath not himself* (says L. 2.

D

C. de

" C. de infant. expos.) is judged to have deserted his Pd.  
 " ernal or Dominical Power, which he hath shewn him.  
 " selfunworthy of: And are not Subjects a Kings Children, and were they not ( when permitted and exposed to the P's. Compassion ) K. J's. Slaves. It is called Desertion, in a Commander, when once leaving his station and Souldiers; he, in the day of Battel, flyeth from his Colours: and in a Master of a Man of War, who in the fury of the Fight, gives over the Helm and permits (as to him) the Ship to Split: and in the Governour of a tenible Castle, who, when (in a Siege) there is most need of his Presence, slips from his Office out at a Postern: all which will hold more firmly, when the Enemy demanded nothing but what those Officers were obliged to by the Law of Arms, their King had commanded to grant, and their Souldiers supplicated to conced. Even so K. J. (the Commander, Master, and Governour of these Kingdoms, which are like an Army, Ship, or Castle †) leaving that Post in which GOD had set him; when the P. required nothing but what was the Law of Nations, according to the Word of the KING of Kings, and the Subjects humble Remonstrances; must be acknowledged to have Deserted. If Subjects once leave their King in his greatest straits when he exacts nothing of them but what their own Laws do bind them to; this is Defection: and so a King's once leaving (a Prince and) his Subjects, (in their greatest needs,) craving meerly what his own Laws (and consequently that of Nations) do determine, is Desertion: since *Correlativorum eadem est ratio & Disciplina.*

A Kingdom is a Body (Political) and the King (Analogically) its Spirit, (*Spiritus vitalis quem in milia trahunt* \*) Form, or Species †. Government is the full and perfect Consociation of the Members and parts cohering by the commontye of this Spirit and Form (as to the Head it self.) Whenthis Spirit and

\* Sen.  
Epist:  
102.

<sup>a</sup> Sen. ds  
Clem. L. I  
C. 4.  
<sup>†</sup> L: pro-  
ponebatur  
de jad.

and Form do not appear, it is all the same with Non-existence: *Quod non appareat pro eo est quasi non sit \**, \* Grotius  
*esse & non apparere tantum valent, quoad eum cuius* 2. 8. 7.  
*n'appareat †; qui in urbe Roma est ita ut lateat, nondum* † Grotius.  
*cepsus paulo videtur; opus enim est ut cognoscatur ‡;* 2. 10. 9.  
*and in Law, sub factis comprehenduntur non facta.* So \* L. Ult:  
*that as when sickness vehemently encreasing; the* ff: de  
*soul separates from the Body; Man rests dead (as*  
*that form) unless of new inspired; and a toured*  
*spring, the Form or Impediment removed, returns*  
*(at least) to a more lax posture: the Government*  
*abandoned by its life, (K. J.) was revived, and con-*  
*strained Liberty rested at its scope, in his Highness*  
*holome. There is an egregious example among*  
*the Jews, where, if the poor did partly Collect,*  
*partly Neglect the Corn left to them by the Lord of*  
*the Ground, that which they neglected might be*  
*taken up by any as Derelinquished \*.* Which we + Seld:  
*shall apply to our case, in the famous Conringius* lib: 6: c:  
*'words †. Derelinquit ille Imperium in civitatem qui* 6:p:699:  
*sciens volensque \* Paititur eam perire, aut in summum*  
*discrimen adduci; nec in salutem ejus quicquam moveat*  
*dignum memoratu: nec enim ita se gerit circa rem quam*  
*pro sua vindicat, vir bonus & prudens, sed erga rem*  
*alienam. Grotius asserts, Amissum censetur cuius*  
*recuperandi spes projicitur: But K. J. having firmly*  
*concluded not to grant our demands, could have no*  
*hopes of recovering his Estate at present (else he had*  
*not left it but granted and recovered) and so, pro*  
*tempore, he hath lost it, (at least) by Desertion. A*  
*Kings right in such cases is more easily admitted, than*  
*a private mans which he hath only for himself, and in*  
*which publick Peace is not concerned: But even a*  
*private man, Rem suam possideri respicens, & vel non + L. 3. 8.*  
*admissus, vel maiorem vim veretur, possidendi ani-* 6. l. 6. 7.  
*mum omissose censetur etiam invititus \**; (For whileas it acq. pos:  
*is said, Animo retinetur possessio; that is understood,* Bruner:  
*not of a naked and vain Imagination and Cupidity, pos: th.*  
 but 11.

but of that rational mind and will which may at pleasure exert it self, *corporis ministerio*, in Imperial Acts \* ) And so all this must much more hold in James's Desertion.

*Struv:*  
*Ex: 42:*  
*ch: 34.*

We may rationally presume from K. J's. Nobleness and Charity, that he Dispensed, (like Solomons true Mother, who, for the sake of her Child, would rather sign him up wholly to the Enemy, than reserve to himself, a share made dead and useless by the Swords with his present frail Right, (in hopes of one more fitting his Counsellours humour) whereby (at least his own friends (whom he knew it was Morally impossible to have Protection or keep Life or goods any other terms) might not be involved in Permanent Rebellion in complying, or ruine in gainstarding: since, it by his ill Administration, he had given occasion of sin or such damage, he were obnoxious to Divine displeasure. These Conjectures which also favour Piety, present Peace, and humane Society (whose Interest it is to have Empire fixed and incontrovertible) are to be extended to the outmost.

*Grot. 2.* Hence Custome (which is Law, only by tacite consent) is introduced by Subjects, only because the King does permit and Tolerate; but is not K. J. a parent leaving, and giving up all to the Conqueror's determination, expressly to permit and Tolera? A Liferent is not only admitted by Non-usage, but also by inundation Intercepting Possession thereof and by Civil Death: but most Lawyers call the Regal Right a Liferent, and here was Non-usage *culpa in frudens*, and the Possession intercepted, and K. J. Civilly dead as to the Kingdom (after Desertion:) And so why was not his Liferent admitted; since the spaced time is only of Civil Institution, and pertains to private, not publick business, the reason and stated these being most different. Finally even as the Sun being absent, and the Earth Ecclipting its beams, be reflected from the Moon, we remain in Darkness.

*DD. ad  
Instit. q.  
m. u. s.*

at pleasure, and the passages, of the Spirits directed from glandulae in *liveri*, stop or marred, the Members have no, or only convulsive, motion; and the *Primum mobile* ceases to act, the inferior Orbs must sist also; and the true Mountain dammed, the rivulets run dry for want of continued influence: So had we as to K. J. by his desertion; if the P. (come in his place and right) had not given light, Spirits, Motion, and Influence our Government: i. e. the same Body remained, at least Head only changed.

Many would make much curious dissertation here, how K. J. deserted all his Legal Regal right; even before the Child's birth. For (would they add) K. J. instance, Derelinquished, laid aside, and neglected demandingly and voluntarily, the Administration of the Government by Law (which was his only true, competent and Legal Right) in all the parts thereof, Civil, Ecclesiastical, and Military; with intention notwithstanding, to use it: But this is a full definition of Desertion, Go: &c. Legal and Illegal are inconsistent and incompatible in the same Subject of Government: so the sole use of Illegal Exercise totally excludes K. J. as the Legal as Deserted. King and Tyrant (*qui tire queritur*) are repugnant: and so he is no more a King who cast off the Fetters of the Law, then he is a Prince, who hath got at Absolute liberty by breaking, and thereby deserting his Prison: and he remains a Man, but the Regal King, who leaveshis line of Subordination to God; as he remains a Man, but not a Subject (as the Priviledges) who swerves from, and leaps out of his line of Subordination to the King. He cannot be called a Father of his Subjects, who treats them not as Children, but as Slaves: Or a Pastor who does not feed, but only fleece the Flock. Some are materially just, but not formally so, do not impair this entire Desertion, and so the Actor's being King: since they are exerceed, *Ex usurpatione Legitima battens Derelicta*) and the real being,

Nature,

Nature, and so Denomination of things, are taken from the Major and Prevalent part: Even as he who hath a servitude, admits the same either by an <sup>tot</sup> non-use thereof; or using it, but not *jure Servitatis*, or not after the due and (by Law or Paction) prescribed manner †; or after a manner contrary to Constitution: As *Adam* (Lord of the Creatures) by his Ambition yet mounted a step higher; and so (in one act) deserted that whole happy Post in which he stood and consisted formerly: and a Man is a Robber (having thrown off honesty,) tho he affect some Justice in dividing the Prey or otherways; even as Satyr is no Man, tho resembling him in face, gesture, and speech.

Hence (would they proceed) the King becomes such a Man; the being merely Passive, in not concurring with him (against a Foreign Prince come to rescue us by a War which was Lawful, and consequently unlawful to resist) was no resisting the King nor consequently the Powers. For *K. J.* indeed usurped (in place of the, already Deserted, Legal and Limited) an Illegal and Despotic Power which being null, unwarrantable, and he having right to make use of (*formandatarius nullam habet testatem extra fines [quoad Materiam aut Formam] ad datu[m] propositos;* and a King is at most but GOD's *Mandator.*) He had no Power, and consequently no man was obliged to obey it, (at least) actively; since the whole Legal frame did then lye unhinged; and *al licitum nemo obligatur;* and *non Imperata jure nec ius exequi.* No Mortals precept (especially when none can excuse Suicide, if killed, or murder, if I kill, in wicked cause (such is the opposing a just war, *in Bellum nequit esse utrinque iustum;*) and so we did rig in obeying rather GOD than Man; since both bond and free must make count for their own Actions. So *Josephus* tells us, *That the brave Jewish Souldiers in Alexander the Great's Army, could neither by stric-*

nor reproaches be forced to carry (only) Materials for repairing Belus's Temple in Babylon. Much less could any Law or Oath oblige Subjects here, to assist any Officer or Minister, in that crime against the P. seeing it is permitted by the Law of all Nations (and consequently the Antecedent consent of all Sovereigns) even to actively resist them, exacting any thing unjust or illegal. Nor this is not resisting the King (in so far not represented by them, their Commissions being in so far null; since *rei illicitae nullum est Mandatum*) but holding their hands, and Parcieing the Rod. This was enacted by Kings as a Caution, that any thing Surreptitious, or formerly made Law by the King himself (with advice of his great Council that it was for the publick good of the State) were not obtruded for his real pleasure, or subverted by his less Solemn will (by the Delusion of any Particular lesser Council; to the publick ruine of the State.) Hence is the check of Seals, And *Chancellours*; and Rescript of *Antiochus 3.* *Ne Magistratus sibi parerent si quid Legibus adversum jussisset;* and *Constantine,* *Eiusdem Imperatoris rescriptum proferatur \**; and the famous Law (*Devotum, C. de Metat.*) with the enlargements of the Doctors thereon. Hence it appears, that the Major part of Subjects (especially Scotland) being meerly Passive till K. J. final Deserion, were altogether blamless: (since all their Active concurrence fisted within their breasts without any fait ouvert.) Even in the Principles of the rigidiest *Mutineer.*

On this ground / of K. J. ceasing to be Lawful King by his own Spontaneous and deliberate Deserion) would they justify their inviting, and thereafter actively Assisting the P. (in both their Defence) against him. But I shall relate the more moderate judgment of a Gentleman (and perhaps the remainder [Minor part of the Kingdom] were of the like opinion) both as to the Invitation and active Assistance, I, (said he, being a zealous Royalist) seeing that

\* Vid.  
L. i. C.  
de peit  
bon. subl.  
& ibs Cir:  
a Brunens.

that without the safe-guard of a Non-subject-Prince, our Laws securing Religion, Lives, Liberties, and Properties, were but trifles (being without Sanction, since it is not permitted to Subjects to defend them, by themselves, say some Men) and seeing the ruin of my self and Brethren in the overthrow of these Laws: concluded it lawful to invite the P: to use his Right of Defending them and us; and ceasing to be K: J's: Subject and become the P's: to assist him, (come to England) as my present Sovereign. As to the First, Though it be Criminal in a Servant (because of his personal tie, and want of power) to punish his Master, delinquent against himself and the State; yet it is lawful, to him, to invoke another (no wayes under that tie, and having power) to use his right therein: and consequently to Subjects.

<sup>† Nota,</sup>  
This is  
the strain  
of the  
Roy-  
alists  
writings  
*vid: Sur-  
vey of  
Nephm:*

CHRIST, as Man, submitted himself (in our Nature) to fulfil all righteousness; And consequently as a Subject, to all the Duties which Subjects owe to Kings: since he came in the forme of a Servant and Subject; and was made under the Law. Hence what might have been lawful to him (in His estate of humiliation) towards Magistrates, must be (now) lawful to us. But, though CHRIST would not resist Authority, & condemned the resisting it in Peter, (for that injurie was private,) Yet \* *He could have prayed to the Father, (who might do it) for legions, to His assistance in that extremity of danger;* (for all Judea was then tyrannized over, also;) And the only reason given (then) for omitting it, is, (not unlawfulness, but) because He was willing to be taken, *knowing that it must be so.* This clearly implices the possibility, of such a Call, (in Him) and consequently the lawfulness of such a Call (in us) of force against the oppressing Magistrate: And our King's by assisting others on their supplication, have approved and consented it should be so. As to the second, I was indeed once under K: J: but (for the foresaid Reasons) I renounced and deserted my *Domicil, and estate, animo nunquam*

\* Matth:  
23: 52:

*Anquām redundi* ( on the resolute condition of Non-Redress ) and submitted to , and owned, the P: as my (now) Sovereign : which Surrender he accepted (which was meerly giving Sanctuary [causa cognitā] to a

innocent flying thereto) by his Declarations\*. And so my Allegiance was transferred from King James, to his Highness ; ( Protection and Allegiance being naturally reciprocal ; ) and then I entered in a Religious covenant under his conduct. Lawyers † are express that, by the Law of Nature , Nations, and Recent customs, I had right of Liberty of Transition from, and then submission to, any Sovereign I pleased ; and consequently to the P: ( no Prohibition of this particular case preceeding, nor he pre-declared Enemie ; ) especially on grounds, so important to me, and profitable to K: Ja: I having left to him my whole Estate ( the taking of which, I believed, would be called Forefeiture ) as the price ( to conuince an other Souldier in my stead ) of my necessary absence. Nothing is unjust which hath not a necessary Repugnancy with the Rational and Social Nature\*: But this was not repugnant to the Rational nature ; *summa enim ratio est que pro Religione, & lenitate facit* : Nor to the Social ; for I took this course for the good of both my New and Old Societies.

Even so many *Israelites* ( without consent of their own Kings ) submitted themselves to , were incorporate under, and entered in covenant with *Ahab* and *Hezekiah* as become their King for carrying on a reformation, according to the Law †: They fell to *out of Israel*, when they saw the LORD his GOD *with him* \*, Junius renders it *defecerunt ad eum*; others, *Transfugerunt ad eum*, *dejecerunt se ei* ; im-ming both their Defection from *Baalha* and Sub-  
mission to *Ahab*, as his Subjects; Whence, V: 15: they are comprehended under the name of *Judah*. If it be pretended that, this Doctrine opens a door perpetual Revolts of Subjects, Resp: 1: ab incommodo

\* Vid:  
Decl:  
where he  
requires  
etc.  
† Grotius  
Gail:  
Brunemz:  
Struv:  
Wissenb:  
ad tit, ft:  
ad mu-  
nic:

\* Grot:  
1: 2: 1: 3:

2 Chro.  
29: 10:  
and 30:  
25:

\* 2 Chr:  
15: 9:  
15.

*modo nullum est argumentum*: since *incommodum* and  
*illicitum* are quite different; and the abuse of a law-  
ful thing by another, does not take away from me  
the lawful use of it, else they might part us shortly  
with the *BIBLE* it self: Wherefore *malaus usus*, in-  
*latur abusus*, since Pirates also saile, and Robben  
use weapons. 2: There is no such frequent *incon-  
modum* in this: for, (besides, that this is *commodum*  
to the multitude of Subjects, yea, to the King him-  
self [ detained, for fear thereof, from sinning ] and  
so to Humane Society;) there will be but too sel-  
dom the concurrence, of a foreign Prince, univer-  
sal unanimity of the Subjects, and sufficient cause  
in their King; all which are indispensable Requisits.  
Hence, a forraign Prince, and Subjects here, are ei-  
ther conscientious, or not: if they be conscientious  
there is no fear of their attempting without just ca-  
ses; if they be not conscientious, they will attemp-  
without any, or on other pretences (though we take  
from them this:) And consequently there is no Ad-  
vantage in not admitting this Doctrine; but great  
Disadvantage to the Happiness and security of Man-  
kind. In a word, it is certain that Subjects will  
never ruin their own Quiet (if not possessed) care-  
lessly: and so the King will remain secure (if he be  
not raving.) And so we see from this Deduction  
that, at least, the major part (by which all Societies  
are estimate) of the Subjects being innocent; the  
acceding to the Prince; (even before K: James's  
Desertion, and so the perfection of the Prince's right  
did not impede or vitiate his Right, (subsequent  
ter that Desertion) through Conquest. Which  
would hold also as to its real effect, though some  
of these Subjects had laboured of some personal defect,  
since *accessorium non potest mutare principale*, while  
*inutile non vitiaatur*; *propositum in animo retentum, in-*  
*operatur*: And it is lawful to use evil instruments  
good ends, and lawful to himself: (he forced so

too, whom he might have treated, as enemies to be meerly passive † : ) as GOD himself does † Trans- Devils and Sinners. From all which it is demonstra- fugam jure bel-  
ble, that [ this First being consummate by a Se- li reci-  
cond, Desertion and final Disappearing as to any pimus Capacity whatsoever ] neither Prince nor Subjects [ trans- have dethroned K: James, but he hath, by his own fugam Facts, d epoed himself : And that , it is not by Vi- ff: de acq: rer: Dom:  
gour of any sentence he is un-King'd ; but before \* Plut: any Act declaring meerly what was past , ( the Mem- bers being in effect, so many witnesses ; [ not Judges ] in Grac- chum An not each to himself, but to the rest and the publick ; Sacro- sanctus just as, on that account, Legatarius potest esse testis in testamento ubi aliquid ei reliquum est ; & civis potest esse testis in causa sue universitatis ; ) he ceased to be King, erit, eui nihil ipso jure , ( as Gracchus proved in the Tribunus-plebis himself , though most inviolable \* ) his remanent aut sa- erum aut Right having ceded to the Conqueror , and from fuit, fanticum him to the Subjects.

## T H E S I S IV.

*The now Manumitted , and so ( from the late K: J: ) free People , choicing to declare the ( then ) Prince their King , his present Possession is Founded on all the Rights that the utmost extent of Birth-right , Con- quest , and Election , conjunctly or separately , can afford : and so all his Majestie's proceed- ings ( as grounded on immoveable Justice , ) are most confisitent with his Honour and Glo- ry. As shall be demonstrated.*

### P R O B A T I O N .

I. **T**HE People , having now the whole power in their own hands , might have declared it to

to whom they pleased. i.e. King James, or King William, and Queen Mary. It is well known that they being Legally quite of K. J. the current of the Kingdoms ran against recalling and re-establishing him. Their general reasons were (not only the justness of so punishing him [if it can be called any punishment] for bygones, but also) at home; the new danger of *Papery* and *Slavery*, against which K. J. would never have granted sufficient Security, (Religion and humour being perpetual Barrs thereto) and tho he would from within, yet he could not from without: since there was no way to do it (*Papists* promises [to Hereticks especially] being *fides punica*) from Foreign Combined Invasions: And Abroad, the cutting our selves off from the Protestant Allies, and them from us; a thing grossly against Interest, Gratitude, and Charity, considering their kindness to us, and both their, and our, present and future, Common Perils. Particulars were infinite, of which we had many in the Debates and Writings. Wherefore the States seeing, the Justice, Necessity, & Utility of Electing this time to declare the P: their Monarch; did make that happy choice which he was graciously pleased to accept accordingly. This Descention of His, was an Act of the greatest Justice, and Conscience, and Necessity of Duty and Honour; and consequently, nothing derogating from, but adding to, his former Renown and Glory. For His Majesty may be considered all along this Enterprise, either as a Sovereign Prince (Abstractly from any Relation;) or (Concretely) as K. J's. Nephew and Son-in-Law. I shall shew that, as the first, he hath been blameless; and as the second, nothing undutiful: and Consequently, that as both, Virtue rears him up rather to Wonder then Imitation: For that (like *Fabritius*.) he was innocent even in war (which is so hard,) *Et qui aliquid crederet & in hostem, nefas.* This shall be done first in general; then in special both as to his Right by Conquest and as to his Right by Election.

First

First, in General. Since this was a Just and Solemn War, and also justly Prosecuted (as hath been proven) the P. (both as a Prince and Kinsman) is necessarily blameless therein: (both as to its Consequences of Conquest and Election.) For as the Achaeans said to the Senate, *Quoniam modo quæ jure belli acta sunt in Disceptationem venient? quicquid in hostibus fesi, jus belli defendit*\*: And as *Marellus*, of Souldiers, *Quæ commissa capite luarent, sum quia palludati fecerunt,* \* *Liv.*  
*Laudamus*\*. That Mean which is necessary for obtaining a good and Lawful end, is also good and Lawful; for in *Moralibus*, *qui das finem, dat ea quæ ad finem perducunt;* & *dato consequente, datur Antecedens fine quo ad consequens perveniri nequit.* Neither must this necessity of the Means (requisite to a Lawful end) which we have right to use, be examined according to a *Physical Subtility*, but Morally in a *Moral Matter*, such as War is. In particular, *Theologues* teach, that War being a means, is destinat to, (and so must preceed) the end (which is to remove those things which perturb Peace:) And so War and its effects continue still just, till by its means that end be gained and fully satisfied\*. But the P's. end (*viz.* \* *Thom.*  
 our Preservation from Popery and Tyranny, present or future) was Lawful; as hath been Demonstrated. <sup>1. 2. Q.</sup> <sup>40. Art.</sup>  
 And it was Morally impossible to obtain this end but by the means of War: (all others being rejected by K. J.) and to come at this one end by the means of War, there were only two Adequate and Plenary Manners Morally possible, *viz.* K. J's. own Concession, or the P's. become, in effect, King by Conquest for denial of that. But K. J. first would conced but little, and at last (having deserted) could grant nothing at all: and so the Prince was Absolutly necessitate (since he knew then [what appeared before Probably, and thereafter in the Meetings, certainly] that the Subjects would have it no otherwayes) to use his own right. This he did most Justly and Noblie; and

and that in special, first as to his Right of Conquest, then of Election.

1. As to the Right by Conquest: the Justice of inflicting that Punishment; and the necessity of duty and honour (by cause of the state in which K. J. himself had cast affairs) and so the Moral impossibility (by K. J. own fault) of hindring the Subjects proceedings (some way or other) against him; did oblige the P. to use it.

1. As to the Justice of inflicting that Punishment (of using the Right of Conquest:) The war and punishment being most just in themselves (as is proven formerly) both being inferred only, after K. J. was obstinately Inflexible: the inflicting this punishment in right of this war, must be fully justified; because K. J. hath consented thereto both by his Acts of first Transgressing, and then Deserting. For a Delict is a kind of involuntary Contract: since he who wills to, directly transgress (against the Law of Nations V. G.) Indirectly, by Consequence, and implicitly, Wills also to merit punishment: So, *Ipse te huic pena subdidisti*, say the Emperors \*; and he who

\* L. Imperatores: suffers himself to be Circumcised (when he might Jur. Filc. avert it by granting some thing in his Power, much L. Ult. ad L. jul. more by paying a Debt) consents to the Circumcision Maj. and is punished accordingly †. Hence any damage

+ Strav: sustained by the delinquent thorow the inflicting punishment, cannot be properly and truly called loss: Ex. 8. th. 12. since it's payment of an [impliedly] consensual debt due to the Delict; and “*Qui damnum suaculpâ sentit,*

“*non videtur damnum sentire; & nemo damnum faci-*

\* L. 151 “*nisi quid facit, quod facere jus non habet* \*; Et non-

R. J: “*dum videtur vim facere qui jure suo uititur* †; ut & null-

† L. 155. “*ius videetur dolofacere qui jure suo uititur* \*”. Whence

R. J. there is no Injurie done to the Nocent when he is

\* L. 55. “*punished: Since, Non exiguo falluntur errore qui cen-*

R. J. “*suram sive humanam sive divinam acerbitatis & malitia-*

“*nomine infamant; putantes nocentem dici oportere. qu-*

Nocens;

"*Nocentes affici pena*\*; And, *Removeantur patroci-nia que favorem reis & Auxilium facinoris imperti-endo, maturari scelera fecerunt*†. Consequently it is Justice (to which Princes are obliged [since the Law enjoyns, let not thy eye pity them] in so far as able and the Law of Nations permits) to punish Delinquents: and so it is no Inhumanity: For GOD, himself most Merciful; CHRIST most Patient\*; and Moses; the meekest on Earth; did most severely damn the disobedient. All which holds much more in our case, where (K. J. Person untouched) there is nothing taken from him, but his Deserted Estate: i.e. the Power of farther Injuring. For the R. as *Seneca* speaks, *Non irascitur sed caves*: did not Acquiesce in K. J.'s evil; but respect His, Ours, and Others good: which did perfect the Equity and Moderation of this punishment. K. J. own good is expressed by *Seneca*† (more largely then we require,) *Interdum ut per-reant interest pereuntium*, Because a Delinquent, as *Plutarch* hath it, is, *Cateris noxius at sibi Maxime*: Wherefore it was less evil to die (at least as to the Estate only) then (without Repentance which Adversity occasions) by living (thereto) to go on in sinning; as a Medicine, which tho ungrateful to the taste, is healthful, must be given to those (at least) who are otherwise irrecoverable. Our good is evident; for hereby we are secured from suffering the like hereafter either from K. J. or others. All Mankind reaps advantage from the terror of this publick Example: for Princes will be just, (and so Subjects rest happy) least their Neighbours should come and Vindicate Humanity; there being no barr of Rebellion.

2. Necessity of Duty and Honour (by cause of the state to which K. J. had drawn Affairs;) and so the *real impossibility* (by K. J.'s own fault) of impeding, at least, the Subjects even dethroning him; did urge the Prince indispensably to use his Right by Conquest. That is, the Prince seeing an end, (vix. Self.

\* *Lvtant de ira Dei. C. 17.*  
† *L. 3. Cod. Theod. P.*

\* *Matth. 22. 7.*

† *Sen. de ira. C. 6.*

*Self-preservation*; and consecutively thereto, [at least] a probability of their firm Resolution of ] the keeping out of K: James; unalterably concluded by the Subjects: this mean (as most all-satisfying) to that end (the first part of which he would not, and the other [when concluded by the States] he could not, stope) was necessarily concluded by the Prince yet so as also Legally; it being the inflicting the punishment which he had so just right to inflict. For first, As to Duty. It is known to all in what a streak the Subjects (as their Representatives [as freely elected as ever any were]) also told, when advised were carried against K: James's return, when K: himself had once set them free by Desertion. And would the Prince himself (against Justice) in no using his own Right, / by a strange turn of the Tables,) once more ruin us: since K: J: neither would in Humour, nor could in, his Religion, as Respect of Forreigners, sufficiently secure us therefrom: Or could the P: (in power) bring K: J: bad against Millions gainstanding; because they were perswaded (be the Truth as it will) he went off to destroy them; and that they could expect no less at last / since Papists Religion cannot change, and there was a new subject of Revenge) by borrowed aid; All outward appearances of safety notwithstanding. And if the P: had left us (which alone [if that same] was in his power) exposed to confusion, or our Enemies (both which were inevitable by his deserting his Right, also;) he had, against the dictates of Nature, Law, and most solemn promises †, (to cause our full Redress and Security) turned out benefit received (but imperfect as yet) to our Calamity. But the P: did otherwise, as indeed, all that is Sacred did oblige him, in Duty. For, *Thou shalt not deliver unto Master the (oppressed) Servant who is escaped from his Master, unto the ----- thou shalt not oppress him*

† Vid: his  
Decl:

‡ Deut:  
23: 15,  
16.

at least and Non debet *beneficiis in calamitatem converti*\*; \* L. 20.  
he keep ff. de cap-  
ed by odio, we being given up and intrusted to his never  
totted Faith, *Fides agi visa, deditos non prodi*\*. Se- tivis.  
ng ) to ually, as to Honour. True Honour is the reward VII.  
t, and Virtue and Glorious Actions: Whence it hangeth  
the could on the Airy esteem of Vulgar ignorant opinion;  
Prince ing indeed of it self, Essential and Absolute, in-  
ng tha rent and Natural, and so can have its Lustre (as  
ft. For the Diamond) from it self alone. Wherefore this  
stream wing been Justice and Duty cannot be but honour-  
s free able: whatever the Ignorant ( of Right and Fact)  
advised think; or the ( knowing of both, but ) wicked,  
n K: ) sed, or interested pretend. Honour would not  
And submit such a mean Act; as to fist re infelix, and  
in no wise over ( to our irreparable losl) that right X. I.  
n of the self had given, and thrown on, him, and that  
neither this so injurious Threats: since this had been bely-  
on, as what he had already done, and tamely fisting  
as then into acknowledge his former Error. His Glory  
J: bac and Courage were incapable of such Pusillanimity:  
ey were for if thou faint in the day of Adversity ( such was to  
went on in X. I's. being Finally remediless ) thy strengib is  
t no le small; if thou forbear to deliver them that are drawn to  
ge, an hab; & wile thou not preserve them that are led to be  
borrow dat? Neither would it excuse the P. that what  
notwith \* Prov.  
h along stately (it being contrived of purpose, so as no 24. 10.  
I to coual Probation could be had: to do which is al- 11. 12.  
ive iner easie to so great Masters and Secretaries as the  
e had, fass, I for Example the Massacres never known  
most f actually seen; ) those of them who ( for Money )  
ress a it to any, being sure [for their own future  
it impay and honour of the Society ] to do that, on word  
: did honur and Oath never to discover the informers  
oblied witnessses. ) For the Text adds, If thou say,  
unse old we know not of it; He that pondereth the hea ris.  
ped fr os. He understand it? Finally, let us bear  
ss him concerning the right by Conquest ) the Noble Ro-

- \* Halic.    " mans to the Volsci \* , Cum non a nobis huc ius sit institutum  
 Lib. 7.    " cum , sed a Diis verius quam ab hominibus profectum  
               " Omnimque Gentium tam Graciarum quam Barbararum  
               " usu probatum ; nihil vobis per ignoriam concedemus  
               " Maximum enim id probrum foret qua virtute & fortitudine  
               " quæsua sunt , ea per formidinem ausus sumus  
 t Lib. 6.    " amittere : And † Neque enim induc possumus usum  
               " facilitate deleamus virtutis monumenta , si ea illis non  
               " damus quibus semel perierunt .

From all which it is perspicuous that no Commis-  
 ration or Clemency ( entailed by Succession on our  
 great Prince ) did engage him, not to use his Right  
 by Conquest. For the most Holy Altar it self, shew-  
 ed no favour to those who troubled the State of the

- \* Diod.    " Countrey deliberatly : And ( as Gilippus says \* )  
 Sicul.    " These who ( Dolomalo & injusta alieni cupiditas )  
 Lib. 13.    " Very Coveting, much more Stealth, being a breach of the  
               " Commandments ) fell into these evils ; let them not as-  
               " cuse Fortune, let them not usurp the name of Suppli-  
               " cants : for those Mens lives full of unjust deeds, but  
               " left open no place for Pity or Refuge. Menander distin-  
               " guisheth excellently Misfortune and Injurie.

Injuria illud disfas infortunio,  
 Hoc casus, illam quod voluntas efficit:

- † Cic de invent.    " Whence Cicero † concludes, Misereri oportet  
               " propter fortunam, non propter malitiam in miseria  
               " sunt. Hence, since the injuries were done not  
 24    only to the Prince, but the Subjects, and the danger  
               " impended over both ; it could be no Clemency or  
               " Greatness of Mind in him, to remit their rights,

- \* Sen. de Clement. C. 20:    " Seneca \* ( speaking of a Prince ) does argue, Na-  
               " quemadmodum non est magni a nimis qui de alieno Libre  
               " lis est ; ita Clementem non vocabo in alieno dolore faci-  
               " lem. So we shall conclude with the Sentence of the  
 \* Liv. 7.    " Admirable Livius \* , Satius judicemus paucos aliquos  
               " mala ferre quam immensam multitudinem.

We see likewise from the Premisses, that the P.  
fellow intended (*ab initio*) to take nothing from K. J. (that  
bar and truly his) on condition of granting the things de-  
cidedly demanded; but to leave the Scepter to him on the Con-  
sequences (noways truly Noxious, as himself and Pre-  
decessors had prejudged in many Parliaments) of our  
us full reservation: as *Hercules to Priamus,*

*Suscipe, dixit, Rector, habenas,  
Patrioque, sed, celsus Solio,  
Sed Sceptra fide meliore sene.*

Right, when K. J. would not keep it on these (first, long  
of the silting the most of them, then all, by Desertion) says \* Justice, Conscience, necessity of duty and honour,  
upid compelled the P. (*ex post facto*, & *causa supervenientia*) the condition failing, to use his right of Conquest.  
not as, when I pursue my Father for a Personal  
Supp of the duty or fact to which he is obliged, I in-  
dls, but end not to evict his real estate; yet, he delaying, I'm  
7 dilig constrained to affect it by Adjudication: So in the  
*Armada of Denunciation*, Conquest is not the Will  
or implied Certification. And as, when I wound a  
man in Self-defence, I intend not Primarily, and  
from the beginning, his hurt (which would be Sin)  
for my own Preservation: and in the Act itself, (be-  
tweene some necessarie) I wish it were Morally possible, I  
misin might do any other thing to deter or debilitate him:  
ne nowt whileas himself will not permit it, I remaine  
dangerous.

2. As to the P's. right by Election; What is said of  
hts, as Conquest holds much more in his Accepting the Right  
, Namely Election: since as K. J's. deeds and the Subjects ir-  
Liberty prefable Resolutions have conferred and forced on  
the P. the first Right; so the Subjects by themselves  
e of the (tho in a different manner) the second. The States  
aliquot might have run to Extremities (as the Suisses and Gri-  
m after getting out under the German Empire, or the

Provinces, Spain) or, he refusing, declared another which they would have been torn with great Divi-  
sion done; and when done, less happy; which his  
declared promises tied the P. to prevent: ) and it  
would no more (being at Liberty) by recalling K.  
be shot (like the Eagle) with their own Pens: an  
the P. was engaged, to accept the offered Declara-  
tion of his own and K. J's. Childrens Rights, by  
love he bore to them, and the Zeal and Obligation  
himself had to embrace all Lawful means of serving  
the Protestant Religion here, or elsewhere. The  
signs of K. J. against both him and all Britain, appe-  
ared from injurious Threatnings and great Prepar-  
ations: Wherefore to have left us destitute of his C-  
duct (*armis & consilio*) and Alliances (whose  
strength we had already, so Beneficially known)  
had been to expose us to the very same ruine which  
came to Avert. But Justice, Duty, Necessity  
Conscience and Honour, did oblige him; that (as  
came at first, for us and our Religion) so to stay  
last, for us and our Religion; and (not only to be  
but) continue in well-doing: especially consider-  
the very same causes (yea Augmented) continu-  
(both as to K. J. and us) should produce the like  
effects. And *Potesates summae vim non presentemus*  
*sum, sed quae de longe imminere videatur praeveniri*  
*junct, ulciscendo delictum, captum jam, sed non*  
*summatum\**.

\* Grot.  
2. I. 16.

As to the Prince's Relation, (in being King  
and Son in Law to K:J:) it renders what he hath done  
(as a Prince) both as to his Right of Conquest, Election,  
no wayes undutiful. For, no Natural Bond obliegeth me to gift over the Right I have  
from the Law of Nature or Nations; at least where  
Justice, necessity of Duty, Conscience, and Honour  
oblige me to use it my self; No Relation be-  
*iniquitatis vinculum*; And *Qui jure suo usitur, nullius*  
*cit in iurium*: and so that Relation could not hind-

(seeing the necessities from the Peoples irre  
Divisiblable bent against K. J's. return) from doing these  
ch his Duties to his Religion, Glory, and Countrey. By  
and the Law of Ordinate Charity we must do more  
calling K. to good of the Innocent then Noctent; and common  
ns: and in private: whence such an effectual love to our  
Declaring good Friends, should only be exerted, except a  
s, by a greater, and more just, to many others (which is the  
obligation of all Pious censure and war) hinder it: be-  
of semine inordinate Mercy to them were Cruelty to all  
The others; and punishing those, is, to these, "Mercy.

Augustin, Sicut est aliquando Misericordia puni-  
Preparans, ita & Crudelitas parcens, And Chrysostom †, Non t' Chrysostom  
t his Cœur, sed ex bonitate talia faciens homines. For ad. i Cor  
( where are three, Successive Orders and Degrees of 3.12.  
know natural ties, viz. First to God, then our Country,  
which lastly to each single Man. And the inferior de-  
necessity, (to each single man) must by the order and  
law of Nature, being Ballanced with, cede to, its  
Superiours. (To GOD and Countrey. ) Hence  
we shall leave Father and Mother and follow CHRIST;  
and this concludes, Patriam debere Parentibus esse  
continuum, and out of Demosibenes,

*Carsum occidisti dum vis succurrere, nullum  
Crismen habes: manus est tibi putior ac fuis ante.*

so a Tutor, thô being the King's Advocat, is oblig'd  
Kinsman in Law and Honour to defend his Pupil against all  
hatred Mortals; and so the King himself and nearest Relations  
questions: as in all private judgments ( to which War is  
Nature assimilate ) God hath prescribed, *Neither shalt thou*  
*abstain to sustenace a Poor man in his cause, .... Nor honour the*  
*mighty son of the mighty* \*. That is, ( as Philo expresses ) \* Exod.  
Homines potest res abstrahere a Litigiorum respectu: Whence 23. 2.  
on being doing the same ( necessarily at least ) in war, is  
nihil nowayes undutiful; especially since such a desperate  
Disease was irrepressible, unless by the sharpest Medicines

encies. Finally, *Paul only requires Children then to obey Parents in the Lord;* And *Quintilian*, <sup>†</sup> *Imperialis sententiam dicas contra quam existimat dicere, hoc sunt quae fieri non possunt:* and so *K. 7.* Commands could not break off the P. from what was perswaded in his own mind. Approved examples go further then we require in our Circumstances. For *Thebe* is praised for killing her Husband; and *Noleon* his Brother; and *Cassius* and *Fulvius* their Sons for Tyranny or endeavours to reduce it: Even *Presbiteri* ( tho Brethren ) depose incorrigible Brothers. The Eleven *Tribes* did near Extirpate the *jamites*, ( which breach, yet, the *LORD* made ) after requiring, and their not hearkning, but making head against their Brethren: and that for one Crime of not delivering up the guilty of one Maleifice. *And smote Japheth Gilead for not assisting.* And *Asa* did that which was right in the sight of the *Lord*: and his heart was perfect: and *Maachah* his Mother, even he removed from being Queen: because she had made an *Idol* in a Grove. <sup>†</sup> Solomon accepted his Brother *Adonijah's* Crown; and smote himself that he died. And *Jotham*, his Father *Uzziah's*; so soon as he was cut off from the Congregation, for, his Usurping the Church's Right, and thereon, Leprosie. <sup>†</sup> So *Selucus* King of *Asia* kept the most famous *Democritus* ( his Father in Law ) in Perpetual Prison: and *Hug Capet* ( which I mention, only to stop the French King's mouth ) his near Kinsman. *Christiern* King of *Denmark* thought it not against his Honour ( his Brother being expelled ) to accept his Crown; and Imprison himself ( returning ) in *Calemburgh Castle*. *Eadem Pietate* ( says *Bodinus* ) *John* King of *Sweden* was forced to keep in Custody his Brother *Henry*, to paciate by the People, lest he should have vexed himself and the Publick. The great *Henry III.* of *England* was Crowned in his Fathers lifetime. And *I.* ( 1. & 6. ) retained his Mothers Scepter, as the Pious

<sup>\* Jud.</sup>  
20. 18.  
21. 10.  
15.

<sup>† 1 Kings</sup>  
15. 11.  
13. 14.  
<sup>1 Kin.</sup>  
2.  
<sup>\* 2 Chron.</sup>  
26.  
<sup>2 Kin.</sup>  
15.

Elizabeth (a near Cousin) retained her Person long captive. All these I hope, either in respect of their high Qualities, deep Knowledge, signal Piety, and being informed by the greatest *Casuists* and *Lawyers*, had sufficient sense of true honour, right, and Conscience.

Finally, To a just war (so called as *justa nuptia, iustum testamentum*) and to int'ret its peculiar effects and consequences whatsoever; [without any respect to its cause or prosecution] there are only two things required in the Law of Nations, viz. Sovereign Power on both sides, and Denunciation \*; and possession on both these: and consequently after obtaining Possession, all lawful Obedience is due to the Powers in such Possession. This Law was introduced by Nations for publick Utility and eviting grievous incommodity: So that it being a common Paction of all Mankind (as Civil Law is *communis reipublicae sponsus*) on so just grounds; the possession throw Conquest and by occasion of such a War, hath right transmitted by consent, not only of the Conquered (*positio ex casu*) but of all other Mortals. And so the effect of this is, to be acknowledged by Foreigners, and obeyed by Subjects; and that b. should be maintained in that Possession by both, according to that "consent. *Ceterum jure Gentium, non tantum is qui ex justa causa bellum gerit, sed & quivù, in bello solenni, & sine fine modoque, dominus sit eorum quid hosti eripit: ut a Gensibus omnibus & ipse & qui ab eo Titulum habent, in possessione rerum talium suendi sint.*" \* 3. 4. 4 War among Princes is like Actions betwixt private men before a Supreme Judge; Victory and effect following thereon, to a Sentence and Execution: so that as, *Res judicata pro veritate habetur, & præter ius dicu etiam cum iniqt decernit*, Because in Tali judicio quasi contrahitur; Conquest gives External right to the Conqueror, without respect to the internal justice: The Reasons that induced all Nations to this consent were evident.

\* Grot.  
1. 3. Q.  
L. 118.  
de V. S.

\* 6. 2.

I. Since

2. Since many things both of Fact and Right escape the most accurate observation; and its impossible to observe exactly the precise measure of Defence, Recovery of what is due to us, or ours; or the Equivalent merit of inflicted Punishment; necessity urges to leavethe justice of the cause in War, and the moderation used in its effect (and all following thereon) to the Religion of its Authors; since there is no common Judge, each party pretending he alone hath just cause; and other States will not Pronounce therein, least they should be implicate in the Controversie. It would be an endless task, and require an Infallible History of the World (which is not to be made by Man) to prove clearly the just Titles from which any King whatsoever derives his Right; and therefore Possession of the Powers and Force have been fixed as sufficient Charters thereof; there being no less necessity of securing this Dominion (for evitng confusion) than of introducing Dominion at first (for that cause) by such an Universal tacit Renunciation and consent of those interested in common. Necessity of it self, Legittimats exceptions (not express) from general duties certainly incumbent by the Law of GOD in Expressum; as the instances of the Sabbath, Shew-Bread, plucking ears of (other mens) Corn, and Alliances betwixt Husband and Wife, do make manifest. But absolute Necessity engages (especially) private men, who are not able to judge a controverted Right, and ought not to prefer (in these Points of Law) their own ill informed opinion, to the judgment of all other knowing Concitizens (since it was our consent and will, in first entering Society, that the Major part should oblige each single man in those things for which that Society was institute [i. e. publick Determinations and common good]) and not that there should be no possibility of establishing peace and calming differences: much more when there is a new consent by choicing

R.

Representatives for that effect) to follow the guide of Possession in their Obedience. And Consequently this necessity much more Legitimatis this obedience (not certainly prohibited by the Law of GOD, but) certainly enjoyned by it: as shall be proven hereafter.

2. The Advantages of private possession (*ut ab armis abstineatur*) especially obtained by Sentence (to which Victory is Equivalent) shews us the Reasonableness of this Law. For any Possessor whatsoever; *ex ipso*, hath more right then he who possessest not; and, *in dubio*, is judged for against the *Petitor*: for there is a Dominion of Possession it self besides the Presumptive Dominion of the thing possesst. None is holden to produce the title of his possession: and there is a presumption that he possessest Lawfully. None is to be deprived (even of unjust) Possession without Cognition of the cause (or Citation to that effect) and *Moderation in culpa sua* is allowed the possessor to defend it, even against a judge proceeding without that. Possessors have retention (at least) for necessar Expences: *Et in pari causa* (it self) *semper melior est conditio possidentis*\*: Since all this obtains where there is little hazard of publick Peace, how much more must it obtain where publick Peace wold be, otherways, totally ruin'd: which solid "ground made Cyrus† to Relate, *Lex est sempiterna inter homines, capi et hostium Urbe, corundem res atque pecunias, vitori cedere*; And *Plato*, *Bona, que virtus habuit, omnia Vittoris fiant*; And *Augustus* "judge him a Good Man and Citizen who would not have the present state changed; And *Cicero*, *That is behooved a Patron of ease and constard to defend the Settlement of the Common-wealth, which is in Beeing for the time*; And *Livius*, *Optimum quenque presentis statu gaudere*.

3. The necessity of admitting Possession obtained by, or by occasion of War, the only ~~exception~~  
that

\* See for  
all these  
Cit. a  
Struv.  
Ex. 51.  
th. 23.  
† Xenoph.  
instit.  
Cyrus  
*Plato de Legib.*  
*Cicer.*  
Orat. ad  
Quir.  
cont.  
Rullum,  
*Liv. Lib.*  
35.

that Demonstrateth Right ( in its several kinds ) among Supreme Princes , and over the Subjects ; is Demonstrable from the context of the Worlds History . For the first Origine of Kingly Power ( at least after the Flood ) was from , or by occasion of , Force ( excepting perhaps , some Patriarchal and Consensual Rights \* : ) which begune by *Nimrod* , the *Affyrian* , *Persian* , *Grecian* , and *Roman* Monarchies , Were derived down by the same Title . So , the old *Egyptian* , *Ethiopian* , *Gracian* , *Macedonian* , *Corinbian* , *Athenian* , *Lacedemonian* , *Cretian* , *Latin Kings* , have got their Empires by Arms , transmitted the same by Succession to their Posterity . Four Emperours held the *Roman Empire* in one year , the Rights ceding to the Stronger successively . The *Grand Seigneur* hath no other Title to all his Dominions ; nor most that ever were settled under , that *Mistris of the World ! Rome* ; or under the conquests of the *Goths* , *Normans* , *Vandal* , *Huns* , &c . For their Liberty ; against the extant Representatives of these Soveraigns . In a word ( not to swell up particular Histories of *Denmark* , *Sweden* , *France* , &c . ) remove all Right from possession following on War as to Princes ; and the Doctrine of Resistance as to Subjects ( and one of these must have given the foresaid Rights ) so that neither can afford a good title ; there will not be one Lawful King , or State in all Europe : ( especially in our times ; when some Lawiers [ particularly French ] conclude neither Prescription nor Subjects consent to prejudge a Soveraign . ) And yet both Neighbour and Subjects have acknowledged them all Lawful as both *Christians* and *Pagans* did , and do , in the former instances . All which irrefragably evinces that Mankind hath consented , Possession ( on [ at least a Lawful Denounced War ] should decide all Controversie of Debatable pretensions to the Right possessed , both as to Prince and Subjects . Which is special Providence of GOD , who , otherways , ha-

\* Bodin.  
rep. P.  
579.

left Men more miserable then beasts; and the confused World to flame in inextinguishable Combustions both Civil and Publick: Whileas now ( for he is a GOD of Order ) Possession, in a great measure, prevents these dreadful Convulsions. In the Controversie about *Olyntbius*, in Seneca: *Vobis, Athenien-*  
*ses, expedit; alioquin Imperium Vestrum in Antiquos*  
*fines redigetur quicquid est bello parum: And Quinti-*  
*lian Testifies, Pure belli Regna, Populos, fines Gentili-*  
*um, atque Urbium Continers.* We must not therefore, condemn and upbraid all the Princes and Subjects ( in every Revolution ) since the Creation, in <sup>† Nulla</sup> Criminally denying Obedience <sup>‡</sup> to our present happy Government.

4. Domestick Precedents and Municipal Laws (to which K. J. hath also consented and sworn, and so, on condition of the existence of such a case, renounced his Right) go along, (asindeed, they cannot binder) this Law of Nations. For by the express Law <sup>\*</sup> of *England*; the People investing any, their King he becomes *King Regnant*; & so Treason is committed against him; yea which, the King out of Possession (whom it is no Treason to kill, and whose Pardons are null) coming again to the Crown, may punish as Treason. So *Ed. IV.* chased out of *England*, and *Henry VI* set up, the Leagues with the former King and Realm subsisted; the right of the Successor and Body being the same, the Head only changed <sup>†</sup>. *Charles I.* having sworn to the King of *Spain* expressly as King of *Portugal*, did receive Ambassadors from the then new King of *Portugal*, without being judged, in *England* or *Spain*, to have broken his former Oath and League. Even as *Charles VIII*, having Conquered Naples his Discharges on receipt of publick dues, were sustained valid by the Vanquished being restored <sup>\*</sup>. Yea the Acts of a meer Tyrant and Usurper, (i.e. who without War Denounced, or being a Subject, hath

enim  
tam pro-  
pria Re-  
bellio  
est quam  
reitera-  
tio belli  
flemel  
sedati /  
contra  
victo-  
rem.  
*Rosenbr:*  
10. 35.  
24.

<sup>‡</sup> 11 H:  
7. C. 1.  
4 Ed. 4. 1.  
9 Ed. 4.  
12.

Cook. just  
3. fol. 7.  
<sup>†</sup> Comines  
3. 6.  
Vid.

*Cambden.*  
an. 1572.  
<sup>\* Afflict.</sup>  
decil.  
Neip.  
114.  
got 509.

got Possession *de facto*, but no Right *de jure Gentium*, which is noways our case) subsift and oblige; least, otherways, Order and Justice taken away, all ran to ruine\*. So Cicero and *Florus* argue for Sylla's

\* *Grot.*  
1. 4. 15. Laws; and Cromwel's needed Rescinding, *Ex privatio presupponit habitum*. This Law of Nations holds much more, when the Possession hath the absolute consent both Tacite and Express, of, / yea proceedeth from) the People; as it was in all the steps the P. made both in first coming over; then taking on the Temporary; and at last, the perpetual Government. The last was by precedent consent of the whole People; and the first two by the wholes Ratification: which may be cleared by this Example. The Election of the Roman Emperors, by the Citizens of Rome (which wasthe Mistres, and alone had the Disposal of the Roman Empire) staying at Constantinople, (Bissamini Quirites, says Lucan) was valid by the tacite consent of the Senate and People \*. Then the Election of them by the Senate became valid by the Peoples Ratification and Acquiescence: As the Legions Elections (of themselves insufficient) were also confirmed: and at last they declared their minds by the mouth of their Bishop and Principal Citizen: and the Emperors so established were, and are, acknowledged by all Forraigners and Subjects. K. J's Mutining Friends were, and are more, specially obliged to this Acquiescence and Consent; since they might have been prosecute as Rebels, Banditi, and Robbers, but were (of admirable Clemency) spared:

Even as a Captive in a just war cannot in Conscience, flee from the taker; for the right acquired in him should not be frustrated; and he owes him service by whom he is continued on life, in compensation of that Donation and Benefit †. Whence also appears the natural reason of the Premises, viz. From whomsoever we get Protection, we owe to him as a return, Allegiance: and whosoever will, or can, not give us pro-

† *Lessius*  
Lib. 1.  
C. 15.

Protection, hath no title to exact our Allegiance; i. e. Nature doth oblige us to preserve our selves, (under the Conduct of a friend) and not to perish (for the sake of an enemy, especially) in every Revolution.

5. But that which absolutely Enforces, our consent to this Law of Nations, and Obedience to the Powers that (*in presenti*) are, is the Authority of the holy Scriptures, and the Example of the Primitive Christians, and so, the Obligation of that Humility, Submission, and Peaceable Behaviour which our Religion teacheth us. For, the Power as it is a Power, and as it is in it self; and so as a Real Being and for our Good; is good and ordained of GOD: (since every real Being (evil is no being, but privation) is good of it self and effectually from GOD; *And it is GOD that ( by what means forever obtained ) putteth down one, and setteth up another ) without considering the justness of its Acquisition. Now, it is known that Nebuchadnezar's power over the Nations ( was unjust in its Acquisition; and yet ) when acquired, GOD calls him His servant, is said to set up his Throne \*, and threatneth him with destruction that, unlawfully, \* Jer. 43. disobeyed him †. He made Zedekiah, as King under, and 10. to give Oath of Fidelity to him; while his own Prince + Ezek. Jehoiachin was yes above this Oath, GOD (calling it mine) 17. did approve; and therefore punished its breach, and the Rebellion against the Conqueror. The like Title had Cyrus, 2 Chron. 36. 13. and yet in respect of his Power, the Lord calleth him conferred. his Shepherd, and his Anointed, and calleth that it should be himself that would confer that power upon him \*. But which is more, it is certain from all Histories, that the Right; to the Roman Empire, from Cesar downward so long as possessed (at least) by title of Succession was meet Usurpation (because both assumed by Subjects, without Denunciation of war; yea without a Lawful cause;) Yet St. Paul testifieth, That the Powers that were then were ordained of GOD; and commanded Submission to them, under the hazard of Rev. 6. 13.*

*sitting the Ordinance of GOD, and receiving damnation;*  
 And was obeyed by the Primitive Christians and Martyrs ( sufficiently able to resist ) accordingly. And they swore the Military Oath to every one that prevailed: and so never adhered to the Dethroned Emperor but acknowledged the new one. Nor is there one instance of ( Clergy especially ) in any part or Age of the Christian Church, doing otherways. The Sacredness of the Power once in possession (*multa non rette, sunt, quae facta valent*) hath been so universally observed that, indeed, it seems to have been a part of the Traditional Religion conveyed from *Noah* to his Posterity, ( so necessary that was for first Peopling, and then maintaining, the World peopled. ) And at last, Authorised by *Christ* himself, who ( because he saw *Cæsar* was in Possession of the Civil Power, by his *Image* ) commanded to give unto *Cæsar* that which was *Cæsars*, ( yea he owned the possesst Usurper *Cajaphas*; as St. Paul did *Annianius* ) which perhaps is the reason of our Axiom, that the Crown purgeth all Defects. Finally, since meer possession, without considering the justnes of its cause; yea where its cause is evidently unjust; and without Denounciation of War; yea in a Subject who hath no Power of war or to denounce; and without the Peoples good and consent; yea (in some kind) against both; gives such right to the possessor in the Subjects Allegiance: how much more in our case, where there is evidently the justest of causes; yea a concurrence of all the just causes of war; and these declared; and that by a Non-Subject Prince who bath right to War and Declare; and all (in all respects) for the Peoples good and with their consent; yea from both.

In respect of all which, if there be an Invasion; our natural ties, to King *William*, and fellow-Subjects, and Allies, and Our-selves; by our Allegiance, Duty, Gratitude, and Charity: indispensibly oblige us to defend Church and State; from Popery and

and Slavery ( which will be surely the reward of an unnatural concurrence thereto, by concurring to this Invasion ) once out of doors : From French and Irish Dragooning Inquisitions ; the necessary consequent ( both from their Religion and new Engagements ) of sufficient Power : from a Forreign Prince and a Forreign Prelate ( such are, at least, the French King, Princes of Italy, and the Pope ) whose Forces and Treasure come against us : from stranger *Miscreants* and *Savages* ( whom no command [ especially if wanting pay ] can possibly withhold from sacking Friend and Enemy ; and a fair prospect of undoubted Victory will make a most fit nick of time [ we know what the Jesuits private instructions, and their Religion and spite to execute, can inspire ] unquarrelably to dispatch *Hereticks*, *Qua Rebels*: *Quibus ex fides servanda non est cum existit potestas* ) whose Commissions from K. J. are null ; and so to be resisted as so many *Irish Wolves* and Armed Robbers : Finally, from bearing ( as being the cause of ) that *Atelodama* of innocent Blood ( spared, hitherto, by such Miraculous Providence ) and the lasting ruine ( now guarded against ) of Religion and Liberties, here and elsewhere. For we need not think the Tragedie will end on this Stage, since ( in case of sudden Victory ) all that K. J. esteems bonds, ( viz. Religion, Promises, Honour, Gratitude, and Interest ) will indispensibly engage ( all then, lying prostrate at pleasure without reserve ) to mutually relieve the pressed French King, and be revenged on the Protestant Confederats. And in case of a long intestine Desolation ( while the French run down all others being destitute of, yea weaken'd by fending to, Britains Assistance, ) what speedy concurrence will be denyed to the favours of K. William, must be sacrificed with sorrow, to the fury of K. Lewis : since we know his Pretensions and intentions ( only stopable here ) for an Universal Monarchy, and against Protestancy ; and that Religion

tion or Faith given, are no bars to his Majesty?

The Advantages, of a Non-subj<sup>t</sup> Prince : And that the next Prince, and, next Princess's Husband, in Blood : miraculous, unanimity of the Princes (in most other things at Enquiry) Praefat<sup>t</sup> and Pepis<sup>b</sup>, abroad, and universal concurrence and consent of the People. (as different in Judgements as Faces) at home : Undenyable evidence of Fact giving Occasion to both; and obstinate inflexibleness of the late K: James, to remove the same. His first, Abdicating, then, Deserting, his Right, and Kingdoms; and the Singularity of matter of Right arising from all these. Finally, That no less, and no more, was necessary to stope the scruples of diversly principled Men; and so to confound even the Objections against all other Revolutions in the World: are the uncontrollable mandations of Heaven (as GOD indicate him, whom he would have the Israelites own us Judge, by some signal pre-deliverance) to our present Establishment. Therefore we'll conclude with

## COROLARIE I.

**I**F, by the Laws of GOD, Nature, and Nation, King William hath, at present, the Regal Right; and James 7. 2. Hath admitted it; then all Subjects owe Allegiance to King William alone, and there is no Allegiance due to the late K: James. But by the Law of GOD, Nature, and Nations, King William hath, at present, the Regal Right; and James 7: 21 hath admitted it. Therefore all Subjects owe Allegiance to K: William only, and there is no Allegiance due to the late K: James. The consequence of the ~~major~~ is uncontrovred: For, one Saviour hath determined that we may ~~not~~ serve two masters; and the Law declared, that, ~~we~~ ~~shall~~ ~~not~~ ~~possess~~ ~~duorum~~ ~~ligies~~; and both these are founded on the Nature of things, by which no Man

be subject to two inconsistent and repugnant Al-  
legiance, ad impossibile, nulli, nemo obligatur. The  
crown may be given to James; and so, I hope, none will  
conclude. Hence

## COROLARIE II.

None of our former Laws and Oaths bind us in Allegiance to lawful Heirs and Successors. But W: and Q: M: are lawful Heirs and Successors. Therefore, our former Laws and Oaths bind us in Allegiance to them. The minor is as clear as Noon: \*Successor, he is a Successor who (by coming in the place) for est, has acquired the whole Right, of the Antecessor: is, qui, and he is Heir who is actually Lord, (*heres quasi cum in-*  
*tervenit*) *per successionem* of that Right, at least, his *senior* predecessor being (*civiliter*) dead: and he is lawful *tenetor* and Successor whom all Law, Divine and *Hu. locum*, hath determined to have so acquired it. But priore W: and Q: M: &c: Ergo &c. Consequently those gradually deny Allegiance to them are Disloyal and Per. vacuo, and since Ja: 7: 2: is as uncontroversially (*civiliter*) *eius in* *ad*, to *Brugis*; as, entering a Monastery, he would *locum*, into the World; or *Christina* of Sweden was, when *ascendit* and resigned and went to *Rome*.

(l. 1, §.  
si filius.)

Definitio legit. l. 3. c. end.) in locumque successisse, dicimus, in per universitatem sive in rebus successerint. (l. 1, §. in locum ff. and leg.) hinc qui in rei Dominium succedunt, successorum nomine videntur, (l. 14. §. adjiciuntur, ff. damn. infest: ) & succedaneus offici dicuntur (in l. 27. c. decur, ) Hareatis appellatione omnes signi- fici successores credendum est. (l. baredis ff. de v: s.) Hi, sciz- untes qui in universum jus succedunt baredis loco habentur. (l. 128. §. als. ff. R: l. ) unde Tripboninus, si pater ut *heres*, virgo filio, nullum servos castrensi imposuit (l. baredis §. pater de casti peculi- f: ) & Plant: Menec: abstulit hanc, cuius *heres* (i. e. Dominus) sequitur post hanc diem. Unde, liberipatroni, perduellionis dampnus,

annati, ( & sic civiliter moriui ) sunt heredes ( id est heredi ) iu-  
is patronatus : & bona damnatorum ( & sic civiliter mortuorum )  
edunt heredibus, usque ad tertium gradum : vid: introd: CHRIST  
: Heir of all things; and that by inheritance ; t e Elect are  
Heirs of the Kingdom ( Ja: 2: 5: Heb: i: 2: 4: 14:) So that K:  
W: and Q. M: are, and may be called, Heirs and Successors to  
their Kingdoms both in the Natural, Legal, and Scriptural ac-  
ception thereof.

### COROLARIE III.

**O**UR former Laws and Oaths binding us to our  
King, and as having Regal Right, bind us not  
to him, when, no more King, and having no Regal  
Right, and so expire with his Kingship. But Jam:  
7: 2: is no more King, and hath no longer any Re-  
gal Right. Therefore our Laws and Oaths bind  
not to him, but expired (as to him) with his King-  
ship. The major is agreed to by all : for the Basis (or  
Kingship ) subverted ; the Superstructure (or  
Obligation thereto) must fall , nibili, enim, null  
sunt affectiones: So a Presbyter's Oath to his Bishop,  
Vassil's to his Lord, Souldier's to his General, &c  
becomes void when their Office terminates , by o-  
thers coming in their Right and Place. The minor  
no less evident by what is already proven : For, sinc  
K: W: is King, and hath the Regal Right to our Al-  
liance, J: 7: 2: cannot remain King, or have the  
Regal Right ; duo enim, non possunt esse Domini ejusdo-  
c*i in solidum.*

Th

## The Dissenter turned \* Loyalist.

Our great King, in Right, first, covered, with his Buckler, and, now, fortifies; with Ramparts, the Temple built of lively Stones, from furious Assailers: Therefore we will cheerfully concur in environing this Vine of CHRIST; least the Boars of the Forest (after all his care) spoil or devour it. One part shall carry mortar, and another stand ready with Swords; † for bringing our House to its full height, and Repulsing the Enemies who would ruine it. Then: the miserables cryes are not so out of our Ears; but, we will remember (the Christian Voyages as far as Judea) against a far more Execrable Turk, and Saracen: For those that die, with a Free-will, in so Holy a War, are more Martyrs, then their Brethren who were Forced to suffer, for RELIGION. \* This is  
not serv-  
ing the  
times, but  
the Lord  
of times:  
nor being  
a Trim-  
mer, un-  
less all  
Loyal  
Subjects  
since the  
Creation  
were such,  
nor ingra-  
titude for  
the bene-  
fits were  
out of,  
given for,  
and so on-  
bling to,  
† Neh: 4.

the publick; at least, ad illicitum obligare nequenit.

Trin-uni D E O Gloria.

F I N I S.